

the commissioners' court to approve such contract. In all cases where a county furnishes part of the cost of improvement on State designated highways the county shall have a voice in the type of construction and the right to have the county's engineer approve the work before all payments of county moneys are made.

Sec. 22. The fact that large areas of the State of Texas, located at considerable distance from the capitol of the State are unable to confer with members of the State Highway Commission who are familiar with the conditions and affairs in their particular section of the State, and to receive advice and counsel from the State Highway Commission relative to road matters, except by a journey to Austin at a time when the Highway Commission is in session, and the further fact that it is impossible for three men to keep in touch with the needs and requirements of the various counties in the State of Texas, and that the services of the State Highway Commission be available in all parts of the State at all times, and especially that the Manager of said Commission be available for advice and counsel at the State Highway Commission at Austin at all times, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

THIRTY-NINTH DAY.

Austin, Texas, March 4, 1929.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Greer.
Berkeley.	Hardin.
Cousins.	Holbrook.
Cunningham.	Hornsby.
DeBerry.	Hyer.
Gainer.	Love.

Martin.	Small.
McFarlane.	Stevenson.
Miller.	Thomason.
Moore.	Westbrook.
Parr.	Williamson.
Parrish.	Wirtz.
Patton.	Witt.
Pollard.	Woodul.
Russek.	Woodward.

Absent—Excused.

Neal.

Prayer by Rev. Dr. Green.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By Senator Small:

S. B. No. 606, A bill to be entitled "An Act ratifying and validating the creation and consolidation proceedings creating Carey Consolidated Rural High School District No. Ten of Childress county, Texas, by consolidating Purple Hill Common School District No. 14, Prairie Hill Common School District No. 4, Carey Common School District No. 10 and Valley View Common School District No. 28, all in Childress county, Texas; ratifying and validating all orders, petitions, notices, elections, orders declaring result of elections and describing the boundaries of such consolidated rural high school district; validating election and election proceedings held on the 6th day of February, 1929, in such consolidated district; authorizing the issuance of Sixty Thousand Dollars schoolhouse bonds and levying a tax in payment thereof, including the petition, orders, notices, election, election returns and authorizing the Board of Trustees to complete the issuance and sale of such bonds; and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

Bills Signed.

The Chair, Lieutenant Governor Barry Miller gave notice of signing,

and did sign, in the presence of the Senate, after their captions had been read, the following bills:

H. B. No. 63.	S. B. No. 107.
H. B. No. 675.	S. B. No. 125.
H. B. No. 522.	S. B. No. 154.
H. B. No. 710.	S. B. No. 179.
H. B. No. 208.	S. B. No. 388.
H. B. No. 262.	S. B. No. 216.
H. B. No. 58.	S. B. No. 359.
H. B. No. 17.	S. B. No. 569.
H. C. R. No. 31.	S. B. No. 182.
H. C. R. No. 30.	S. B. No. 477.
H. B. No. 456.	S. B. No. 384.
H. B. No. 346.	S. B. No. 434.
H. B. No. 552.	S. B. No. 252.
H. B. No. 478.	S. B. No. 446.
H. B. No. 474.	S. B. No. 87.
H. B. No. 646.	S. B. No. 370.
H. B. No. 637.	S. B. No. 404.
H. B. No. 461.	S. B. No. 230.
S. B. No. 99.	S. B. No. 169.
S. B. No. 88.	S. B. No. 451.
S. B. No. 108.	S. B. No. 524.

Special Committee Report.

Senator Parrish sent up the report of the Highway Investigating Committee.

Senator Witt moved that the report be printed and the evidence filed with the Secretary of the Senate. The motion prevailed.

(See Appendix.)

Message From the Governor.

The Chair recognized the Doorkeeper, who introduced a messenger from the Governor with the following message:

Executive Office, Mar. 1, 1929.

To the Honorable Senate of Texas:

I return herewith S. B. No. 150, "An Act to confirm and validate all patents and awards issued on lands lying across or partly across water courses or navigable streams or the beds or abandoned beds thereof, or parts thereof, and to relinquish, quit-claim and grant to patentees and awardees and their assignees all of such lands, and minerals therein contained, across water courses or navigable streams and also the beds or abandoned beds thereof, and minerals therein contained, where such patents or awards have been issued and outstanding for a period of ten years from the date thereof and have not been cancelled or forfeited, without impairing the rights of the gen-

eral public, the State, riparian owners or appropriation, owners in the waters of such streams, and providing that with respect to lands sold by the State of Texas expressly reserving title to minerals in the State, such reservation shall not be affected by this Act and that the patentees or awardees and their assignees shall have the same rights, title and interest in the minerals in the beds or abandoned beds of such water courses or navigable streams that they have in the uplands covered by the same patents; and providing that all of the provisions of this Act shall apply equally to all Spanish and Mexican land grants and titles issued by the Spanish and Mexican Governments prior to the Texas Revolution of 1836, which have been subsequently recognized by the Republic of Texas or by the State of Texas as valid; and declaring an emergency."

I addressed a letter to the Attorney General, requesting the opinion of that Department upon the constitutionality of this Act and certain other matters. The questions presented to the Attorney General's Department are set out in his opinion, which follows:

"I acknowledge receipt of your letter of February 25th to which is attached copy of S. B. No. 150 and in which you propound several inquiries as to the validity of the proposed law.

"The Act is very broad, in fact co-extensive with the limits of the State insofar as its operation is concerned. It undertakes to validate all patents and awards issued on lands lying across or partly across the water courses or navigable streams and the beds and abandoned beds of water courses and navigable streams if such patents and awards have been outstanding and uncanceled for a period of ten years. It is even broader in scope than this, in that it undertakes to relinquish, quitclaim and grant to patentees and awardees and their assignees, all of such lands and the minerals contained therein across such water courses or navigable streams, and the beds or abandoned beds of such streams if such patents and awards are outstanding for a period of ten years.

"The expression 'water courses,'

as used in the bill is meaningless, for the reason that if it is intended to include something different than 'navigable streams,' it could apply only to water courses having less than an average width of thirty feet from the mouth up, and these water courses and beds of same and the minerals therein contained are already incontestably the property of the patentees and awardees. If, on the other hand, it is intended to refer to water courses, which do not continuously carry water, then the respective rights of the State and of the patentees are dependent upon whether such water courses are navigable streams under the statute. Therefore, the Act must be construed as though it dealt only with navigable streams. The use of this term, however, in all of the pertinent sections of the Act indicates the unlimited extent and scope which the Legislature sought to give to the terms and provisions of the Act, and therefore, at the very threshold we are faced with a direct assault upon the general policy of the State and of all other governments as to the ownership and control of the navigable waters and the beds thereunder by the sovereignty for the benefit of the public. This general policy has been, both in Texas and the other states, and almost universally in all countries, that the sovereign title and right of the State in its navigable waters and beds of same is one that can not be surrendered, alienated, or delegated, except for some public purpose or some reasonable use which can fairly be said to be for the public benefit. The power of the State, as the outcome of a general public policy that has always existed to grant land under its navigable waters to private persons or corporations, has always been subject to the qualification that such grant must be for a purpose that is useful, convenient or necessary to the public. So that aside from the constitutional questions involved, the proposed law is a direct assault upon this long established public policy of all governments. I am quite conscious of the fact that the subject matter of the bill has been acrimoniously discussed, the activities of this department in its effort to subserve the public interests and conserve the public free

school land for the benefit of the permanent school fund not having escaped the condemnation of those interested in the passage of the Act.

"I am firmly convinced that there is a condition particularly in West and Southwest Texas of which some relief should be given and a more definite and certain definition of a navigable stream should be enacted into the law, and I have not hesitated to so express myself to many members of the Texas Legislature by a written communication to a member of the State Senate. I am also of the opinion that there should be a reasonable law of limitation as against the State as to actions for the recovery of vacant land which has been held under a claim of title and in possession for a long number of years, and that provisions should be made by the Legislature to locate and mark upon the ground all of the public land within its domain. These, in my judgment, would be wise enactments but the act under consideration does not attempt to do either of these things or in any way remotely relate to them.

"In view of what I have said, it is with much reluctance that I reach the conclusion and so advise you that in my opinion the bill contravenes Section 4 of Article 7 of the Constitution which provides that the public free school lands shall be sold and which would prohibit their being given away, and the further provision of the same section that the Legislature shall not have power to grant any relief to the purchasers of public free school lands, and that it is also in violation of the constitutional inhibition contained in Section 5 of Article 7 which prohibits the appropriation of any public school land which is a part of the permanent school fund to any other purpose than in the investment of bonds of a defined kind.

"I will take up your questions seriatim giving my views as to each:

I.

"Does Senate Bill No. 150 contravene the provisions of the Constitution with reference to lands belonging to the public school funds?"

"As hereinbefore stated, the term 'water courses' as used in the bill has no distinctive meaning insofar as any purpose or intent of the act

might be effected, and, therefore, it must be construed as though it used only the term "navigable streams."

"Navigable streams are of two kinds:

"(a) Those that are navigable in point of fact, and

"(b) Those that are navigable in point of law only.

"Much of the confusion that has arisen in regard to a proper conception of the proposed act has arisen by reason of the fact that in this State there are two distinct kinds of navigable streams as hereinbefore indicated. A stream may be navigable under the laws of this State though it may not be navigable in fact. Article 5302 of the Revised Civil Statutes of 1925 contains the following provision in relation to lands lying on navigable water courses as a definition of navigable streams under the laws of this State:

"All streams so far as they retain an average width of thirty feet from the mouth up shall be considered navigable streams within the meaning hereof, and they shall not be crossed by the lines of any survey."

"This statute was enacted in the year of 1837 and its effect according to the decision in the City of Austin vs. Hall, 93 Tex. 591, 596, is to give 'to the streams described therein the character of navigable streams under the rules which govern the courts in determining that question, and a grant made upon a stream declared by the statute to be navigable would confer title only to the same extent as if the stream were navigable under the general definition given to such water crossed by the lines of any survey.'"

"The result to the locator is the same as if the stream were navigable under the general rule of decision and he would take title limited to the water line the same as if the stream were navigable. * * * The apparent object of the Congress of the Republic in enacting the law and of the several Legislatures which have continued in force was to prevent locaters upon the public domain from monopolizing the waters of the State. * * * In addition thereto, by declaring such streams to be navigable, the State reserved the title to the beds thereof which

are subject to the control of the State."

"The Supreme Court in State vs. Grubstake Investment Association, 297 S. W. 202, in holding that the bed of a stream did not pass out of the State under a Mexican grant of 1835 quoted the Hall case with approval, and also the following from Mass. vs. New York, 271 U. S. 89:

"The dominion of navigable waters and property in the soil under them are so identified with the exercise of the sovereign powers of government that a presumption against their separation from sovereignty must be indulged in construing all grants by the sovereign of lands to be held in private ownership."

"Again the Supreme Court in the case of State vs. Black Bros., 297 S. W. 213, held that the bed of a navigable stream was constructively reserved to the State under a grant made by the State of Texas and could properly be used by the sovereign for the purpose of developing minerals therein contained for the benefit of the school fund.

"These clean cut decisions of our highest tribunal establish that streams navigable by Article 5302 are on a parity with streams in fact navigable, and that the State does not sell but upon the contrary constructively reserves the waters and soil in both such classes of navigable streams upon the making of adjacent grants. They further show that the latter rule is evolved from the civil law as we took it through Mexico and also from the common law as we took it from England. In other words, the principle is basic in the law of this State.

"These cases, it is true, do not construe grants lying across or partly across navigable streams, but rather ordinarily riparian grants, but the difference in the law affecting the two is simply that the more stringent rule should be applied to the first than the second; for it has further been the law since 1837 under this same Article 5302 that navigable streams "shall not be crossed by the lines of any survey," and with reference to that provision it was said by the Supreme Court in Laundry vs. Robison: 219 S. W. 810:

"It was decided in Land Company vs. Thompson, 83 Tex. 179, that surveys astride Devil's River

made in 1876 and 1877 constituted no appropriation of the land, to protect it from subsequent location, because forbidden by the statute, and therefore illegal," and in that case, it was further said:

"Had there been no statutory reservation of the beds of the channels of navigable rivers, we do not think that such general language as 'other public lands' could be held to include the soil beneath navigable waters for our decisions are unanimous in the declaration that by the principles of the civil and common law, soil under navigable waters was treated as held by the State or nation in trust for the whole people. * * * Nothing short of express and positive language can suffice to evidence the intention to grant exclusively private privileges or rights in that used for the common use and benefits."

"It may be added that navigable river beds abandoned through avulsion remain the property of the State. *Siddall vs. Hudson*, 206 S. W. 381. The relative rights of the State and its grantee are apparently determined by the conditions of the stream in all respect as of the time of the grant.

"As continued manifestations of the State policy in this regard, we have also Article 5338 expressly making 'river beds and channels' subject to the general mineral permit law, and Article 4026, declaring that 'all of the public rivers, etc., within the jurisdiction of this State, together with their beds and bottoms, and all the products thereof, shall continue and remain the property of the State of Texas.'

"Under the authority hereinbefore developed—and much more might be added—the conclusion is irresistible that navigable streams, together with their beds and minerals therein contained, embraced in patents or awards of land lying either across or partly across such navigable streams, have not been sold by the State under such patents or awards. If such navigable streams were simply a part of the general public domain and did not belong to the school fund, the Legislature probably could, in the first instance, have given them away, and so doubtless by this Act could ultimately relinquish them. But navigable river beds are part of the

public school fund lands, and their disposition is, therefore, controlled by the constitutional provisions with reference to such lands.

"I do not base my statement as to the school funds property in navigable streams upon Article 5416, which expressly appropriates to the school fund 'all of the unappropriated public domain remaining in this State of whatever character and wheresoever located (with certain exceptions not now important)', nor do I base it upon the general policy of our law to regard navigable streams as a special kind of school land not subject even to sale except where expressly declared by statute, but rather upon the basic law of the land, as found in Article 7, Section 2, expressly setting apart and appropriating to the school fund 'one-half of the public domain of the State.' The reason why navigable streams constructively reserved (as shown above) from general grants of land lying across or partly across such streams necessarily falls into that half of the public domain so broadly referred to in the Constitution, is because our Supreme Court in 1898, in the case of *Hogue v. Baker*, 45 S. W. 1004, as against one seeking a homestead donation, held that the other half of the entire public domain having been then exhausted, all the remainder of such public domain necessarily fell within the Constitutional appropriation to the school fund. That conclusion is summarized in these words by the court:

"The half of the public domain not dedicated to the school fund has already been exhausted, and what remains belongs equitably to that fund."

"The framers of our Constitution, in their good wisdom, have seen fit to afford a peculiar and special protection to our public free schools by limiting the power of the Legislature to act upon public school lands. In the first place, by Section 4, Article 7, of the Constitution, a mandate is put upon the Legislature to sell public school lands. With respect to this mandate it is said in *Smission v. State*, 71 Texas 222, 235:

The effect of this is to withhold from the Legislature power to adopt a system for the ultimate utilization of the common school lands otherwise than through sales."

"In addition, by the same section of the Constitution, it is said: "'The Legislature shall not have power to grant any relief to purchasers thereof.' The Comptroller is further therein directed to "'invest the proceeds of such sales'" in bonds of certain defined kinds, and in Section 5 it is said that 'no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever.' In this connection the decision in *Imperial Irrigation Company v. Jayne*, 104 Texas 395, 415, 417, makes it plain that in this non-diversion restriction the Constitution is referring to lands, proceeds of sale thereof, and bonds, as all included in the general designation 'school fund.'

"It has been held that under the Constitutional provision relating to the diversion of the University fund, similar in terms to that relating to the school fund provision, the Legislature could not even make oil royalties which are in their essential nature proceeds of the University lands, and, therefore, a part of the permanent fund, available for the building needs of the University to which only the 'available fund' could be applied. *State v. Hatcher*, 115 Texas 332.

"In the recent case of *Green v. Robison*, 8 S. W. (2d) 655, the so-called 'Relinquishment Act' was upheld upon the principle that it was not after all a 'relinquishment act,' or a gift or donation, but an exercise of the sovereign lawmaking power in enforcing from the State's purchaser of the oil and gas a compensation to the owner of the soil for the damage done thereto. In this connection it is said:

"'We can not agree with respondents, the Land Commissioner and his attorney, that the Legislature has authority to relinquish to the owner of the soil, without payment of consideration therefor, minerals reserved to the State prior to the sale of the land and withheld in his purchase thereof, or that the cases of *Cox v. Robison*, 105 Texas 426, and *Greene v. Robison*, 109 Texas 367, can be so construed.'"

"Still, again, in the case of *State v. Post*, 169 S. W. 406, it was said with respect to a law attempting to empower the Land Commissioner to resurvey lands already sold without

necessary regard to their original survey lines that

"The Legislature was positively prohibited by the Constitution from disposing of these lands, and from authorizing the Commissioner to do so at the time of such resurvey except by selling the same. To include the lands in controversy in appellee's patented surveys by extending the lines thereof beyond their original location is not to sell such lands as required by the Constitution, but is to give them away."

"As applied to the undertaking of this bill, to confirm and validate, or to relinquish, quit-claim, and grant to patentees, awardees, and assignees of lands lying across or partly across navigable streams, a property right in such navigable streams originally reserved by the State is to relinquish to such awardees and patentees, 'without payment of consideration therefor,' 'all of the lands and minerals therein contained' embraced in such navigable streams, is to extend such grants 'beyond their original locations,' is to permanently divert and withhold such school lands from sale, thus preventing the investment of their proceeds in bonds for the benefit of the school children of the State, is palpably to grant relief to purchasers, is 'to give them away' instead of selling them.

"The use of the terms 'confirmed and validated' in the first section of the bill can not operate to make a confirmation or validation of what upon sale was reserved to the State, and though the Legislature might originally, by express language, have sold the navigable rivers, it could not then, and, therefore, can not now grant away gratis such school fund land.

"Validating or curative statutes presuppose the existence of an initial right, and an irregularity in its origin. It is upon such right and such irregularity that they operate by validating the right and curing the irregularity. If a law undertakes to give a right where none before existed, it certainly is not a validating or curative statute, but one wholly creative in its nature, vesting retroactively a right where there was none. Anything of value added by seller, whether state or individual, after consummation of a

sale, is in its essential nature a gift.

"All of the validation acts that have been upheld by our courts will be found, upon examination, to be simply ratifications by the State as the principal, speaking through the Legislature, of the act of an unauthorized agent—never a retroactive grant of what the Legislature, itself, in the first instance, could not have granted.

"No force can be gained for these awards and patents to surveys lying across navigable streams from the action of the Governor or the Commissioner of the General Land Office with respect thereto. They were made in clear violation of Article 5302, and though there is every reason to believe that they should be upheld, except as to the navigable stream area itself, they can not take any efficacy out of the unauthorized acts of such officers. A leading case on this question is *Day Land & Cattle Company vs. State*, 68 Texas 526, 540. where, as against a suit to recover unlawfully patented land, it is urged that the action of the Governor and the Commissioner of the General Land Office, in issuing the patents, was conclusive, and in overruling this contention it was said:

"All power that any officer of this State is given by a written law directly or indirectly, and any act which any officer, from the Chief Executive of the State to the lowest officer in it, may assume to do in excess of the power thus given, is void."

"The surveyor employed by the awardee to make such surveys is in the same situation, and he is indeed more accurately speaking 'the agent of the claimant of the land, as the duty to have the survey made is imposed upon such claimant.' *Sullivan vs. State*, 95 S. W. 645, 648.

As regards the proviso of the act to the effect that it shall not apply to 'any number of acres of land in excess of the number of acres of land conveyed' originally, and the other proviso to the effect that the State's mineral reservation shall not be affected, it is apparent that the effect of the act, even with these limitations, is still to relinquish that which was not granted, merely putting upon a parity of that which was granted. If the surveys affected

by this bill are short in acreage without the inclusion of that which was reserved by the State upon sale, it is reasonable to suppose that the awardees or their assignees can, and possibly have, secured from the State refunds of purchase money proportional to the shortage.

If there is considered to be some measure of hardship in the situation of land owners now having their holdings divided by a ribbon of State property, still their compensation, if any considered due, can not by the Legislature be taken out of the school fund lands. Even the recompense of payment for duties performed in the military service has been consistently derived from the other half of the public domain—not that appropriated to the school fund.

II.

"What effect, if any will this bill have any pending litigation in which your Department is representing the State of Texas?"

"We have pending at this time but one river bed suit, the same being No. 45,223, in the Fifty-third District Court of Travis County, Texas, being styled the *State of Texas vs. C. W. Bradford, et al.* This suit was filed prior to the extensive oil development that has since taken place in the area in Gray County immediately adjacent to the North fork of the Red River, which is the area sued for. If Senate Bill No. 150 becomes a law, and if further I be mistaken in my advice as hereinbefore given as affecting its unconstitutionality, then the subject matter of the suit will have been relinquished and its purpose terminated.

III.

"Assuming that the survey lines in some instances cross the Brazos, Trinity and Colorado Rivers in the lower regions of these streams, what effect, if any, will this bill have upon passing title to such river beds to the assignee of the original patentee in such instances?"

"Since the bill in unrestricted terms applies to 'navigable streams' there can be no doubt that it applies both to those streams navigable in point of fact—such as those to which you refer—and also

to those navigable only by virtue of the terms of Article 5302.

IV.

'What effect, if any, will this bill have upon the rights of the State in handling the sand and gravel, and the right of ingress and egress for the purpose of removing and selling such sand and gravel?'

"Though the bill abstractedly protects 'the State's title, right or interest in and to the sand and gravel,' the want of an express grant to the State or its permittees of the right of ingress and egress for the purpose of removing and selling such sand and gravel, would leave the State without any effective reservation even as to such sand and gravel.

"The probable effect of the bill is to reserve to the State itself sand and gravel in the river beds as personalty, while granting the subjacent realty to the patentee, awardee or assignee. So far as I know, no way or necessity has ever been held to be implied from a reservation of personalty left upon lands sold, but even if the sand and gravel because left in place be considered realty, the situation is no different from that existing in the case of *State vs. Black Bros.*, 297 S. W. 213, in which the Supreme Court denied to the State a way of necessity for its mineral permittees across the riparian lands to the navigable river bed area operated by them under the State. It was said with obvious application to the situation here presented:

"We should be slow to extend this doctrine of implied reservation of a way of necessity to cases where the unity of title on which it rests can be found only in the sovereign. * * * If a sale or conveyance of one portion of such (the public domain) prevents access to another, it would seem to be a contingency which the Government was bound to contemplate in making the conveyance."

"Even abstractly 'the State's title, right or interest in and to the sand and gravel lying within the bed of any navigable stream within this State, as defined by Article 5302, Revised Statutes, 1925' is protected that far and that far only. In other words, the State's title to

the sand and gravel is not undertaken to be protected in streams navigable in fact but not in law, nor in the beds of abandoned streams, though abandoned beds or water courses would seem to be the main source of the sand and gravel supply.

"Since the State would have no way of necessity either across the adjacent surveys or out on to the granted river bed area, it would follow that its permittees handling the sand and gravel would be trespassers in the eyes of the law. Among these trespassing permittees would be included the counties, road districts, cities or towns of this State taking sand or gravel without charge for highway construction work from the river bed areas involved. See Article 4054.

V.

'What effect, if any, will the provisions of this bill have upon the general policy of the State to appropriate the waters of navigable streams as the property of the general public, having reference to Section 59a of Article 16, Constitution of Texas, declaring the policy of the State in regard to streams?'

"Section 59a of Article 16 declares as a public right and duty 'the conservation and development of all of the natural resources of this State, including the control, storing, preservation and distribution of its storm and flood waters, the waters of its rivers and streams for irrigation power, and all other useful purposes.' This constitutional provision is substantially carried forward in the statutes as Article 7466, and by Article 7467.

"The waters of the ordinary flow and underflow and tides of every flowing river or natural stream - - - and the storm flood or rain waters of every river or natural stream - - - within the State of Texas, are hereby declared to be the property of the State and the right to the use thereof may be acquired by appropriation."

"The bill undertakes to protect 'the rights of the general public and in the State in the waters or streams, or the rights of riparian and appropriation owners in the waters of such streams.' Of course, the bill could not do otherwise, else it would be in

conflict with the Constitution. As it is, there is perhaps no theoretical conflict; that is to say, the State will conserve and develop the waters in its rivers and streams and have a distinct property right therein and permit separate appropriation thereof at the same time it grants away the land under the water. Water in contemplation of the appropriation laws is itself realty, and the legal effect is a severance of horizontal estates, that in the water and that in the land under water, somewhat similar to what has been done with respect to the mineral and surface estates in Texas. The severance in the latter instance has been the source of a great deal of practical interference between those using the ones or the other estate, and has brought about trouble without and culminating in the decision of *Greene vs. Robinson*, 8 S. W. (2nd) 655. It is reasonable to suppose that the appropriation owner of the water can expect an experience of the same kind that the owner of the soil or surface has suffered in this State in the past.

"Thus it is more than probable that the general policy of the State as pictured in the constitutional provision cited, will be largely frustrated by the bill in question.

"This communication is unduly lengthy, but in justification of it I simply cite you to a few instances of its effect insofar as the navigable streams of Texas are concerned. If it become a law, the result will be that the State relinquished all of its right, title and interest in ten miles of the main channel of the mouth of the Trinity River; in twenty miles of the main channel of the Brazos River in Brazoria County; in one hundred miles of the Canadian River which is the widest river in Texas; in all of the main channel of the Trinity River from Dallas to beyond Fort Worth. A very hurried investigation of the records of the Land Office discloses that this Act will result in the State relinquishing its rights, title and interest to portions of fourteen separate navigable streams in this State in forty counties in the State and in approximately four hundred original surveys."

Yours very truly,

(Signed) CLAUDE POLLARD."

From the opinion I gather the fol-

lowing as the points made by the Attorney General:

(1) That there are two classes of navigable streams under our law:

(a) Those streams which are navigable in point of fact for the transportation of persons and property by water craft; and (b) Those streams which are not navigable in point of fact, but are made navigable by the law; and in all events a stream must be of the width fixed by the statute before it is regarded as navigable in legal contemplation.

(2) That the primary purpose in reserving navigable streams was to insure the availability of the water rights therein for public use, rather than for the purpose of preserving this to the public use as a means of transportation of commerce upon such streams.

(3) In any instance where a surveyor actually crossed the stream with the survey lines, neither the award nor the patent carried any title to the bed of the stream, because the law reserved the same, and provided that the survey lines should not cross. In so far as either the award or the patent attempted to carry the title to the bed of the stream, it was illegal and void.

(4) Under the holding of the Supreme Court of Texas, and by reason of the terms of the statute adjusting the rights of the permanent school fund, that the interest which the State had reserved in the beds of navigable streams became a part of the permanent school fund.

(5) That the title which the State had reserved in the beds of navigable streams is subject to the provisions of Article 4 of Section VII of the Constitution of Texas because such reserved title belongs to the Permanent School Fund; and, therefore, cannot be disposed of except by sale, and no relief can be granted to the purchasers thereof.

(6) That the bill in question, in attempting to relinquish and quitclaim the reserve title in the beds of navigable streams where survey have been made to cross the same, and in attempting to validate any such illegal and void sale is unconstitutional because it contravenes the above mentioned section of the Constitution.

(7) That likewise the bill would not permit of the investment of the

proceeds from the sale of such stream beds in the character of bonds mentioned in Section 5 of Article VII of the Constitution of Texas.

(8) That in all probability the bill contravenes the policy of the State as declared in Section 59 of Article XVI of the Constitution.

It occurs to my mind that Section 59a of Article XVI of the Constitution has a further bearing upon this question than that mentioned in the opinion of the Attorney General. It seems to me that this section, as applied to this Act, must be read as follows:

"The conservation and development of all the natural resources of this State, including the control, storing, preservation and distribution of * * * the waters of its rivers and streams for irrigation, power and all other purposes * * * are each and all hereby declared public rights and duties, and the Legislature shall pass all such laws as may be appropriate thereto."

I am of the opinion that within this provision of the Constitution, and independent of all questions of school land rights, is found an express reservation to the State of the certain rights mentioned in the rivers and streams of the State, and that it has a pertinent bearing on this bill.

The opinion of the Attorney General appears to me to be sound in logic and in law, and well supported by the citations of authorities from the Supreme Court and other courts of the State. His reasoning seems convincing and logically leads to the conclusions which the opinion announces.

I can appreciate the feeling of land owners affected by this bill.

To say that a stream running through a county in which there has perhaps never been in all its history any kind of water craft, not even a fishing boat is a navigable river sounds absurd to the mind, but we have many fictions of law. Though it may be a legal fiction, the definition of navigable streams is one fixed by the Legislature, and while a stream might not contain enough water to float a light canoe, not even in flood times, nevertheless it may be one that the Legislature has seen fit to define as a navigable stream.

I comprehend the feelings of the citizen who have bought land from the State, had it surveyed, paid for it, paid taxes upon it, used and occupied it for a score or more of years in a bona fide belief that it was his and that his title is clear, who is later confronted with what seems to his mind to be an incongruity in the claim of some third party that a creek or stream which traverses his land is a navigable river and, therefore, that the State has leased the bed of the navigable stream to a third person for mineral purposes. Such land owner knows that the stream would not, except at flood time, carry the very lightest of water craft, and he is not in harmony with the legal definition of a navigable stream. Thousands of men have gone to West Texas withstood the difficulties, and at great handicaps and with many hardships they have paid for the land and made it their home. It is only reasonable that they should resent any attempt to take a portion of that which they thought was theirs, and take it under what appears to them to be a legal fiction in the definition of a "navigable stream."

I have no argument to make against the feelings of such a land owner. I have no argument to make against his petition for relief. I know that many large oil companies have a pecuniary interest in this matter because of leases which they have taken. Their interest is purely commercial while as regards the land owners there is more than the commercial question involved; he is the man who has helped make that part of the State one of its most productive and progressive sections and the human element is involved in his feelings.

It is claimed that the State has sold the beds of these streams and received money for them. Whatever may be the amount of dollars and cents involved in the matters the State of Texas is wealthy enough and it is honest enough to stand by its every transaction, however, where the Constitution has placed a limit upon the power of the Legislative Department and the Executive Department, these departments do not have power to validate illegal acts. If the integrity of the State is involved, it becomes a matter in which the State must act, rather than its

agents, however, an unconstitutional attempt to correct a defect is no better than no attempt.

There are ways that the relief which the actual land owner wants can be obtained. They are:

(1) By submission of constitutional amendment.

If there is any suggestion of the State not showing good faith by the persons with whom it has had transactions then every citizen of the State would be ready to redeem the faith of Texas by the enactment of whatever amendment would be necessary.

(2) By the enactment of a statute withdrawing from sale whatever title the State may have in navigable streams and the passage of another statute giving the persons owning surveys which cross such streams a preference right to buy whatever title the State may have for sale.

(3) A statute redefining the legal term "navigable streams," but it is hardly believable that such a statute could be retroactive for it would be subject to the same objections as the Bill herewith returned.

For the reasons stated, and because I concur in the opinion of the Attorney General concerning Senate Bill No. 150, I have vetoed the same and return it herewith.

Respectfully submitted,

DAN MOODY.

Senate Bill No. 150.

Senator Small moved that S. B. No. 150 be passed notwithstanding the veto of the Governor and that the bill be set as special order Tuesday after the morning call. The motion prevailed.

Messages From the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,
Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House grants the request of the Senate for a Free Conference Committee on S. B. No. 82. The following members are appointed on the part of the House:

Kimble, Hogg, Storey, Stevenson, Metcalfe.

LOUISE SNOW PHINNEY,
Chief Clerk of the House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 1, 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

By Senator Woodward:

S. J. R. No. 19, A joint resolution "Proposing an amendment to Section 5 of Article 3 of the Constitution of the State of Texas fixing the terms for convening the Legislature of the State of Texas, providing that the first thirty days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon confirmation of recess appointees of the

Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature; providing that during the succeeding thirty days of the Regular Session, committees of each House shall hold hearings to consider bills and resolutions, etc."

By Mr. Prendergast:

H. B. No. 68, A bill to be entitled "An Act to regulate searches and seizures."

H. B. No. 91, A bill to be entitled "An Act providing for the regulations of gins, ginners, ginning; the licensing of ginners; prescribing the conditions of a ginner's bond; providing for proper packing, wrapping, marking, and providing for weighing of seed and lint cotton and cottonseed, and keeping a record of same."

By Mr. Conway and Mr. Holder:

H. B. No. 220, A bill to be entitled "An Act to amend Article 602 of the Penal Code of the State of Texas, 1925, so as to make the offense of desertion of wife or child a felony, providing a penalty therefor; and declaring an emergency."

By Mr. Giles and Mr. Carpenter:

H. B. No. 281, A bill to be entitled "An Act to amend Article 6215, Title 109, Revised Statutes of Texas, 1925, relative to the time of payment of pensions, affidavits, supporting claims and warrants issued in payment thereof, by changing the

time of payment of the pensions so as to provide that payments shall be made on the first day of each year; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

By Mr. Fuchs, Mr. Tillotson and Mr. Chastain:

H. B. No. 286, A bill to be entitled "An Act providing that every person registering a motor vehicle, tractor, trailer, semi-trailer or motorcycle used on the public highways of this State shall accompany his application for registration with a statement upon oath or affirmation, signed by the applicant, that such motor vehicle, tractor, trailer, semi-trailer or motorcycle was rendered for taxation for the preceding year or that said vehicle was not liable for taxation during said preceding year, or that said vehicle was not owned in whole or in part, by the applicant during the preceding year, and stating that the number plates or seal assigned to applicant will not be used on a different motor vehicle, tractor, trailer, semi-trailer or motorcycle other than for which application is made, and providing for the payment of the tax upon said vehicle for the preceding year in lieu of such statement; providing for the administration of such oath or affirmation by the tax collector; and providing a penalty for any misrepresentation made in said statement, and declaring an emergency."

By Mr. Cox of Navarro and Mr. Duvall et al.:

H. B. No. 309, A bill to be entitled "An Act prescribing that physical education courses approved by the State Department of Education shall be taught in the public schools of Texas, and authorizing the State Superintendent of Public Instruction to provide for the direction and supervision of physical education instruction in the public schools."

By Mr. Beck:

H. B. No. 389, A bill to be entitled, "An Act to amend Sections 1, 4, 8, 14 and 15, of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature, 1927, and adding a new section, Section 11-A, thereto, so as to more accurately define the term motor bus company and better define the jurisdiction of the Railroad Commission of Texas in the regulation of motor

bus transportation to provide for the regulation of motor bus terminals; to provide for the licensing of bus drivers and prescribe fees therefor; regulating the rates and the sale of tickets over bus lines; granting to the Railroad Commission the power to bring suits to procure injunctions for the enforcement of the provisions of said H. B. No. 50, same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature."

H. B. No. 735, A bill to be entitled "An Act creating and validating Hidalgo County Water Control and Improvement District No. 7."

H. B. No. 738, A bill to be entitled "An Act relating to the duties of the county board of education and the county superintendent of counties with an area of 977 square miles and a population of not less than 15,000 nor more than 20,000 according to the last preceding Federal census."

By Mr. Albritton, Mr. Kennedy, Mr. Olsen and Mr. Snelgrove:

H. B. No. 465, A bill to be entitled "An Act to amend Title 11, Chapter 6-A (6a), Article 1-4 qq of the Penal Code of the Revised Civil Statutes of the State of Texas, so as to provide adequate and proper punishment for the violation of said chapter, same being the state-wide intoxicating liquor prohibition."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk House of Representatives.

S. C. R. No. 37.

Senator Thomason sent upon the following resolution:

By Senators Thomason, Martin and Patton:

Whereas, A survey of Texas jails discloses an appalling and almost unbelievable condition touching the insane and feeble minded of the State; and

Whereas, County and city jails are not constructed to incarcerate the unfortunate insane; and

Whereas, The unfortunate insane should be placed in institutions especially equipped for their care and treatment and

Whereas, The great State of Texas owes it to these unfortunates to take them out of jails; and

Whereas, The State does not have the time to erect the necessary build-

ings to relieve the congestion in our jails; and

Whereas, The State has the opportunity to acquire property already constructed to relieve this condition and to acquire same at a real bargain; now therefore be it

Resolved By the Senate, the House of Representatives concurring, That three members of the Senate and four members of the House of Representatives be appointed by the presiding officer of the respective bodies to inspect the property of Rusk Junior College at Rusk, Texas, with a view to acquiring same to relieve the congestion of the insane in Texas jails; be it further

Resolved, That said committee shall make its inspection between regular and first called session of the Forty-first Legislature; be it further

Resolved, That said committee shall make said inspection without cost or expense to the State; be it further

Resolved, That said committee shall make a report of its findings on the character and condition of said property and price at which said property can be acquired; be it further

Resolved, That the action of said committee shall in no wise have the effect of binding the Legislature, now or in the future.

Read and adopted.

S. C. R. No. 38.

Senator Greer sent up the following resolution:

By Senator Greer:

Whereas, H. B. No. 10 has been finally passed by both Houses of the Legislature, and

Whereas, the caption and body of the bill do not conform, now therefore, be it

Resolved By the Senate, the House of Representatives concurring, that H. B. No. 10 be returned to the Senate for correction.

The resolution was read and adopted.

House Bills Referred.

H. B. No. 465, referred to Committee on Criminal Jurisprudence.

H. B. No. 738, referred to Committee on Educational Affairs.

H. B. No. 417, referred to Com-

mittee on Mining, Irrigation and Drainage.

H. B. No. 68, referred to Committee on Criminal Jurisprudence.

H. B. No. 91, referred to Committee on State Affairs.

H. B. No. 309, referred to Committee on Educational Affairs.

H. B. No. 286, referred to Committee on State Highways and Motor Traffic.

H. B. No. 281, referred to Committee on State Affairs.

H. B. No. 220, referred to Committee on Criminal Jurisprudence.

H. B. No. 389, referred to Committee on State Highways and Motor Traffic.

Senate Bill No. 413.

The question recurred upon Senator Wirtz's amendment to S. B. No. 413.

Senator Woodward moved to table the amendment.

Senate Bill No. 605.

Senator Parr received unanimous consent to take up out of its regular order the following bill:

S. B. No. 605, A bill to be entitled "An Act to diminish the Civil Jurisdiction of the county court of Nueces county; to conform the jurisdiction of the One Hundred and Thirteenth District Court of Nueces county thereto; etc."

The rule requiring committee reports to lie over one day was suspended.

The committee report was adopted.

On motion of Senator Parr, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 605 was put on its second reading by the following vote:

Yeas—29.

Beck.	Miller.
Berkeley.	Moore.
Cousins.	Parr.
Cunningham.	Parrish.
DeBerry.	Patton.
Gainer.	Pollard.
Hardin.	Russek.
Holbrook.	Small.
Hornsby.	Stevenson.
Hyer.	Thomason.
Love.	Westbrook.
Martin.	Williamson.
McFarlane.	Wirtz.

Witt.
Woodul.

Woodward.

Nay—1.

Greer.

Absent—Excused.

Neal.

The bill was read second time and passed to engrossment.

On motion of Senator Parr, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 605 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Pollard.
DeBerry.	Russek.
Gainer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Nay—1.

Greer.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—27.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Russek.
Gainer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Nays—3.

DeBerry.	Pollard.
Greer.	

Absent—Excused.

Neal.

Senate Bill No. 582.

Senator Parrish received unanimous consent to take up out of its regular order the following bill:

S. B. No. 582, A bill to be entitled "An Act to authorize organized counties in this State which were unorganized at the time of taking the next preceding United States census, and which had a population of less than one hundred at the time of said United States census, to refund the legally outstanding warrants and scrip indebtedness of such counties incurred prior to January 1, 1929; providing limitations upon the issuance of warrants for road and bridge purposes and exceptions therefrom; and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Parrish, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 582 was put on its third reading and final passage, by the following vote:

Yeas—30.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—30.

Beck.	Gainer.
Berkeley.	Greer.
Cousins.	Hardin.
Cunningham.	Holbrook.
DeBerry.	Hornsby.

Hyer.	Russek.
Love.	Small.
Martin.	Stevenson.
McFarlane.	Thomason.
Miller.	Westbrook.
Moore.	Williamson.
Parr.	Wirtz.
Parrish.	Witt.
Patton.	Woodul.
Pollard.	Woodward.

Absent—Excused.

Neal.

Motion to Concur.

On motion of Senator Woodul, the Senate voted to concur in the House amendment to S. B. No. 309 by the following vote:

Yeas—30.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

Message From the House.

The Chair recognized the Door-keeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,
Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

By Senator Pollard:

S. B. No. 520, A bill to be entitled "An Act regulating commercial colleges; requiring commercial colleges that may hereafter be organized in Texas to comply with their contracts with the students who matriculate with them for the purpose of taking commercial courses in accounting,

stenography, telegraphy, typing and other branches generally included in the curriculum of such colleges, etc. and declaring an emergency."

The House has adopted S. C. R. No. 38, requesting the return of H. B. No. 10 to the Senate for correction.

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Recess.

On motion of Senator Hornsby, the Senate, at 12:10 o'clock p. m., recessed until 2:00 o'clock p. m.

After Recess.

The Senate met at 2:00 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Barry Miller.

Senate Bill No. 413.

The question recurred upon the motion to table the pending amendment to S. B. No. 413.

The motion prevailed by the following vote:

Yeas—15.

Beck.	Patton.
Berkeley.	Small.
Gainer.	Thomason.
Greer.	Westbrook.
Hornsby.	Williamson.
Love.	Witt.
Moore.	Woodward.
Parrish.	

Nays—13.

Cousins.	Parr.
Cunningham.	Pollard.
DeBerry.	Russek.
Hardin.	Stevenson.
Holbrook.	Wirtz.
Martin.	Woodul.
McFarlane.	

Absent—Excused.

Neal.

(Pairs Recorded.)

Senator Hyer (present), who would vote yea with Senator Miller (absent), who would vote nay.

Senator Wirtz sent up the following amendment:

Amend S. B. No. 413 by adding a new section to be numbered Section 19a. to read as follows:

"Section 19a. No operator hold-

ing a permit under this Act shall ever charge a rate which will yield a net income in excess of eight (8) per cent of its actual invested capital, exclusive of any valuation placed on its permit; and shall be required to render a full statement on forms prescribed by the Commission, showing the income from each line operated by said operator during the preceding year, and all sums earned by such operator in excess of that herein fixed shall be paid over to the Highway Commission, to be used in the maintenance of the road over which such line is operated."

WIRTZ,

The amendment was read.

Senator Stevenson sent up the following amendment to the amendment:

Amend the amendment to S. B. No. 413 by adding the words:

"The foregoing amendment shall apply only to Class A Motor Carriers."

STEVENSON.

The amendment was read and adopted.

The amendment as amended was adopted.

Senator Williamson sent up the following amendment:

Amend S. B. No. 413 by striking out line 2 on page 3 of the printed bill and insert in lieu thereof the following:

"The Motor Vehicles Commission of Texas which is hereby created composed of three members who shall be appointed by the Governor and whose terms of office shall be six years. In making the first appointment the Governor shall appoint one member for two years and one for four years and one for six years, and thereafter the term of each member shall be six years so that the term of one member shall expire every two years. One of said members shall be appointed by the Governor as Chairman of said commission. The Chairman of the commission shall receive a salary from the State to be fixed by the Legislature not to exceed \$7,000.00 per year and the other two members of the Commission shall each receive a salary from the State to be fixed by the Legislature not to exceed \$6,000.00 per year, payable monthly, and each member shall take the constitutional oath of office. All the

powers, duties and functions of the Railroad Commission of Texas under Chapter 270 of the General and Special Laws of the Regular Session of the 40th Legislature, the same being House Bill No. 50, which relates to and regulates motor busses used for transportation of passengers on the public highways of this State, and any and all amendments thereto shall hereafter vest in the Motor Vehicles Commission of Texas created by this Act. The Railroad Commission of Texas is hereby divested of all said powers, duties and functions."

WILLIAMSON.

The amendment was read.

Senator Pollard raised the point of order that the amendment was out of order because it attempted to amend another bill as well as this one and included motor busses which were not included in the original bill; hence it was not germane.

The Chair, Senator Parrish, overruled the point of order.

Senator Hornsby moved the previous question on the pending amendment. The motion died for lack of a second by five Senators.

Senator McFarlane sent up the following amendment to the amendment:

Amend S. B. No. 413 by amending the amendment by adding:

Provided that all members of this board must be confirmed by the Senate of Texas.

McFARLANE.

The amendment was read and adopted.

The amendment as amended was lost by the following vote:

Yeas—10

Cousins.	Parr.
Cunningham.	Russek.
Martin.	Stevenson.
McFarlane.	Williamson.
Miller.	Wirtz.

Nays—18.

Beck.	Moore.
Berkeley.	Parrish.
DeBerry.	Patton.
Gainer.	Pollard.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Witt.
Hyer.	Woodul.
Love.	Woodward.

Absent.

Greer.

Small.

Absent—Excused.

Neal.

Senator Wirtz sent up the following amendment:

Amend S. B. No 413, as follows:

Amend the bill by adding a new section to be known as Section 13-A, and to read as follows:

"Section 13-A. Before any permit is granted the nature and character of equipment to be used and the amount and character of tonnage which may be hauled therein shall first be fixed and approved by the Highway Commission of Texas. Any person, association of persons, firm or corporation operating under the terms of this Act using any equipment or hauling any tonnage over a highway of this State not approved by the Highway Commission of Texas, shall forfeit its permit and in addition shall be subject to a penalty of one hundred (\$100.00) dollars per day for each day or fraction thereof of which it may be found guilty of violating the provisions of this Section, such penalty to be recovered by suit brought by the Attorney General in any District Court of Travis County."

WIRTZ.

The amendment was read and adopted.

Senator Pollard sent up the following amendment:

Amend S. B. No. 413 by adding a new section as follows:

"Provided, that any certificate of public convenience and necessity shall be cancelled by the Commission if the owner or owners thereof shall in any manner avoid, fail or refuse to pay any gasoline or other tax imposed by the laws of the State of Texas."

The amendment was read and adopted.

Senator Martin sent up the following amendment:

Amend S. B. No. 413 by adding a new paragraph at the end of Section 13, to read as follows:

"No certificate or permit issued to any operator under the terms of this Act shall ever be assignable or

transferable but shall be used only by the operator to whom issued."

MARTIN,
WIRTZ,
MILLER

The amendment was read.

Senator McFarlane sent up the following substitute for the amendment:

By Senator McFarlane:

Amend S. B. No. 413, page 5, line 23 by striking out lines 23 to 32 inclusive, and lines 1 to 4 inclusive, page 6, to the word "provided" in line 4 and insert in lieu thereof the following:

"Any right, privilege, permit or certificate held, owned or obtained by any motor carrier under the provisions of this Act, may be sold, assigned, leased or transferred or inherited; provided, however, that any proposed sale, assignment, lease or transfer as a condition precedent shall be first presented in writing to the commission for its approval or disapproval and the commission shall disapprove such proposed sale, assignment, lease or transfer if the proposed sale, assignment or transfer will permit the operation of a motor carrier vehicle in violation of any of the statutes and laws of this State against trusts, monopolies or conspiracies against trade as defined by the civil and criminal statutes of the State of Texas; and such proposed sale, assignment, lease or transfer shall be disapproved by the commission if the proposed sale, assignment lease or transfer be to a competitive railroad, common carrier or to the officer, agent, manager, lessee, purchaser, director, superintendent or other person connected with the management and control of any competitive railroad corporation," and amend the caption to conform thereto.

McFARLANE.

The amendment was read.

Senator Martin moved to table the substitute. The motion prevailed.

Senator Miller sent up the following amendment to the pending amendment:

Amend the pending amendment by adding thereto the following:

"And provided this provision shall not extend to inheritances under the laws of descent and distribution of this State."

MILLER.

The amendment was read and adopted.

Senator Stevenson moved that further consideration of the pending amendment and the bill be indefinitely postponed.

Senator Love moved the previous question on the pending motion and the pending amendment. The motion was lost by the following vote:

Yeas—13.

Beck.	Small.
Berkeley.	Thomason.
Gainer.	Westbrook.
Hornsby.	Williamson.
Love.	Witt.
Moore.	Woodward.
Parrish.	

Nays—16.

Cousins.	McFarlane.
Cunningham.	Miller.
DeBerry.	Parr.
Greer.	Pollard.
Hardin.	Russek.
Holbrook.	Stevenson.
Hyer.	Wirtz.
Martin.	Woodul.

Absent.

Patton.

Absent—Excused.

Neal.

The motion to indefinitely postpone was lost by the following vote:

Yeas—10.

Cousins.	Miller.
Cunningham.	Parr.
DeBerry.	Russek.
Martin.	Stevenson.
McFarlane.	Wirtz.

Nays—20.

Beck.	Parrish.
Berkeley.	Patton.
Gainer.	Pollard.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodul.
Moore.	Woodward.

Absent—Excused.

Neal.

Senator DeBerry sent up the following amendment to the amendment:

Amend the amendment by adding the following:

"Provided this shall not apply to Class B Motor Vehicles as defined in this Act."

DeBERRY.

The amendment was read and lost.

The amendment by Senator Martin was lost.

The bill as amended passed to engrossment by the following vote:

Yeas—19.

Beck.	Parrish.
Berkeley.	Patton.
Gainer.	Pollard.
Greer.	Small.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Witt.
Moore.	Woodward.
Parr.	

Nays—11.

Cousins.	Miller.
Cunningham.	Russek.
DeBerry.	Stevenson.
Hardin.	Wirtz.
Martin.	Woodul.
McFarlane.	

Absent—Excused.

Neal.

Senator Woodward moved that the constitutional rule requiring bills to be read on three several days be suspended. The motion was lost by the following vote:

Yeas—21.

Beck.	Patton.
Berkeley.	Pollard.
Gainer.	Small.
Greer.	Stevenson.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodul.
Moore.	Woodward.
Parrish.	

Nays—9.

Cousins.	Miller.
Cunningham.	Parr.
DeBerry.	Russek.
Martin.	Wirtz.
McFarlane.	

Absent—Excused.

Neal.

(Four-fifths vote required.)

Simple Resolution No. 86.

Senator Holbrook sent up the following resolution:

Whereas, Herbert Hoover of California at one o'clock Eastern standard time on this day took the oath and assumed the duties of President of the United States of America, therefore, be it

Resolved That the Senate of Texas send him a telegram of felicitation upon his ascension to this the highest office in the gift of our people and pledge to him as such our steadfast allegiance to this union of States in his task to uphold and preserve it.

The resolution was read and adopted.

Invitation to Ball Game.

The Chair laid before the Senate an invitation from Mr. Ettlinger of the University of Texas to the Legislature to attend the opening game of the University baseball team.

Senator McFarlane moved that the Senate accept the invitation.

Senator Holbrook moved as a substitute that the Secretary of the Senate be instructed to express the appreciation and regrets of the Senate, explaining that owing to the lateness of the session and the large number of bills on the calendar it would be impossible to accept the invitation.

The substitute motion prevailed by the following vote:

Yeas—19.

Berkeley.	Parr.
Cousins.	Parrish.
DeBerry.	Patton.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodward.
Moore.	

Nays—9.

Cunningham.	Russek.
Gainer.	Westbrook.
McFarlane.	Wirtz.
Miller.	Woodul.
Pollard.	

Absent—Excused.

Neal.

(Pairs Recorded.)

Senator Beck (present), who would vote yea with Senator Martin (absent), who would vote nay.

House Bill No. 10.

Senator Greer moved to reconsider the vote by which H. B. No. 10 was finally passed.

The motion prevailed.

Senator Greer sent up the following amendment:

Amend H. B. No. 10, Section 1, line 3, by striking out the figures "\$25,000,000.00" and inserting the words and figures Twelve Million Dollars (\$12,000,000.00.)

GREER.

The amendment was read and adopted by the following vote:

Yeas—23.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hyer.	Westbrook.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Moore.	

Nays—5.

Gainer.	Williamson.
Hornsby.	Wirtz.
Miller.	

Absent.

Cousins.	Russek.
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Absent—Excused.

Neal.

Senator Williamson sent up the following amendment:

Amend H. B. No. 10, on page 7, by striking out lines 2, 3 and the first two words of line 4, and inserting in lieu thereof the following: "if a majority of the voters paying taxes upon real property within said city or district shall be in favor thereof."

WILLIAMSON.

The amendment was read.

Senator Pollard moved to table the amendment. The motion prevailed.

The bill as amended finally passed by the following vote:

Yeas—25.

Beck.	Parrish.
Berkeley.	Patton.
Cunningham.	Pollard.
DeBerry.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Witt.
McFarlane.	Woodul.
Moore.	Woodward.
Parr.	

Nays—3.

Gainer.	Wirtz.
Miller.	

Absent—Excused.

Cousins.	Neal.
Martin.	

Senate Bill No. 254.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 254, A bill to be entitled "An Act to amend Article 3884 Revised Civil Statutes of 1925 relating to compensation of deputies and assistants of certain District and County officers; and declaring an emergency."

The bill was read second time.

Senator Hornsby sent up the following amendment:

Amend S. B. No. 254 by striking out everything below the enacting clause and insert in lieu thereof the following:

Section 1. That article 3884 of the Revised Civil Statutes of Texas of 1925 as amended in 1927, Chapter 102 of the General Laws of the 40th Legislature, page 153, be and the same is hereby repealed.

Sec. 2. That Article 3902 of the Revised Civil Statutes of Texas of 1925 be and the same is hereby amended so as to hereafter read as follows:

Article 3902. Whenever the county judge, sheriff, county clerk, county attorney, district clerk, tax collector, tax assessor, justice of the peace, constable, county auditor, shall require the services of deputies or assistants in the performance of

his duties, he may apply to the county commissioners' court of his county for authority to appoint such deputies or assistants, setting out by sworn application the number needed, the position sought to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts and disbursements of the office; and said court may make its order authorizing the appointment of such deputies and fix the compensation to be paid them and determine the number to be appointed, provided that in no case shall commissioners' court or any member thereof attempt to influence the appointment of any person as deputy or assistant in any office. Upon the entry of such order, the officers applying for such deputies shall be authorized to appoint them as provided by law, provided that said compensation shall not exceed the maximum amount hereinafter set out. In counties having a population in excess of one hundred thousand inhabitants, the district attorney in the county of his residence or the county attorney where there is not a district attorney, shall be allowed by order of the commissioners' court of the county where such official resides such amount as said court may deem necessary to pay the proper administration of the duties of such office, not to exceed seventy-five dollars per month; such amount to be allowed upon affidavit of said district or county attorney showing a necessity for such expenses and for all the amounts so incurred. Said commissioners' court may also require any other evidence as it may deem necessary to show the necessity of such expenditure, and its judgment in allowing same shall be final.

The maximum compensation which may be allowed for deputies or assistants to the officers above named for their services, shall be as follows, to-wit:

First assistant or chief deputy not to exceed eighteen hundred dollars per annum; other assistants or deputies not to exceed fifteen hundred dollars per annum each.

Provided, that in counties having a population of from thirty-seven thousand five hundred to one hundred thousand inhabitants, the maxi-

imum compensation which may be allowed such deputies or assistants for their services shall be as follows, to-wit:

First assistant or chief deputy not to exceed twenty-one hundred dollars per annum; heads of such department not to exceed eighteen hundred dollars per annum each; other deputies or assistants not to exceed fifteen hundred dollars per annum each.

Provided that in counties having a population of over thirty-seven thousand five hundred inhabitants, containing no city with a population of twenty-five thousand inhabitants and having property of an assessed valuation exceeding thirty million dollars as shown by the tax rolls for the last preceding year, the maximum compensation which may be allowed such deputies or assistants shall be as follows, to-wit:

First assistant or chief deputy not to exceed twenty-four hundred dollars per annum; heads of such department not to exceed eighteen hundred dollars per annum each; other deputies or assistants not to exceed fifteen hundred dollars per annum each.

Provided that in counties having a population of from thirty-seven thousand five hundred to one hundred thousand, and containing a city of over twenty-five thousand, the maximum compensation that may be allowed such deputies or assistants for their services shall be as follows to-wit:

First assistant or chief deputy not to exceed three thousand dollars per annum; heads of each department not to exceed twenty-four hundred dollars per annum each, other deputies or assistants not to exceed eighteen hundred dollars per annum each.

Provided, that in counties having a population in excess of one hundred thousand inhabitants the maximum compensation that may be allowed such deputies or assistants for their services shall be as follows, to-wit:

First Assistant or chief deputy not to exceed three thousand dollars per annum; provided the commissioners court may increase said amount not to exceed thirty-six hundred dollars per annum, where a necessity therefor is shown, and where the person to be appointed has been previously

the head of a department for not less than one year or has been in the continuous service of the county for a period of not less than two years.

Assistant chief clerk not to exceed twenty-seven hundred dollars; provided the commissioners' court may increase said amount to not exceed three thousand dollars per annum where a necessity therefor is shown and where the person to be appointed has been previously assistant chief clerk for not less than one year or has been in the continuous service of the county for a period of not less than two years.

Heads of departments may be allowed by the court, when in their judgment such are necessary, not to exceed twenty-seven hundred dollars per annum, when such heads of departments sought to be appointed shall have previously served the county for not less than two continuous years. Other heads of departments shall receive not to exceed twenty-four hundred dollars per annum; provided that no head of a department shall be created except where the person sought to be appointed is to be in actual charge thereof, with deputies or assistants under his supervision, or a department approved by the court and only in offices capable of a bona fide subdivision into departments.

Deputies or assistants other than those above provided for may be allowed, the number to be determined by the commissioners court and their salaries based as far as possible on a graduated scale according to service, ability and qualifications. Fifty per cent of the number so appointed may be authorized at a rate not to exceed twenty-four hundred dollars per annum, provided such rate shall be allowed only to deputies in service for two years or more and all others so appointed at a rate not to exceed eighteen hundred dollars per annum.

Provided further, that in determining the number of inhabitants in each of the instances heretofore mentioned, the number of inhabitants as shown by the last United States census shall control.

The county commissioners' court in each order granting authority to appoint deputies or assistants shall state the number of deputies or assistants authorized and the amount

of compensation to be allowed each deputy or assistant, which compensation shall be paid out of the fees of the office to which such deputies or assistants may be appointed and assigned, and shall not be included in estimating the maximum fees of the officers named above. The salaries referred to shall not be paid by the county, but are to be paid out of the fees of the office in the following manner:

First, out of any current fees collected, second, if such fees are not sufficient, then out of any delinquent fees collected which are due the county after all legal deductions are made and if there be any balance remaining after payment of the maximum fee, compensation and excess fees due after such officer or officers and the compensation of such deputy or deputies, such balance shall be paid to the county treasurer.

Provided, however, that nothing in this Act shall be construed to repeal H. B. No. 196, passed by the Regular Session of the Thirty-sixth Legislature, same being known as Chapter 47, of the Acts of the Regular Session of the Thirty-sixth Legislature, page 83, and any act amendatory thereof, relating to fixing salaries of district attorneys, their deputies, assistants and stenographers in counties having a population of more than one hundred thousand.

Provided, that in counties of two hundred thousand inhabitants and over and containing a city with a population of over one hundred and sixty thousand inhabitants, according to the last United States census, and in which counties there are more than one district court, including criminal district courts, the clerk of the district court shall appoint a special deputy for each such court when directed so to do by the judge of any such court, except in instances where there is one now provided for by law; provided further that any such special deputy shall be paid out of the general fund of the county, a salary not in excess of the maximum salary per annum provided for deputies now by law, payable monthly, and such compensation shall not be paid out of the fees of compensation of the district clerk, and shall not be

taken into consideration in arriving at the maximum compensation and excess fees allowed the clerk of the district courts.

Amend the caption to read as follows:

By Hornsby. S. B. No. 254.
An Act repealing Article 3884 Revised Civil Statutes of Texas of 1925 as amended in 1927, relating to the compensation of deputies and assistants of certain district and county officers and amending Article 3902 of the Revised Civil Statutes of Texas of 1925, relating to compensation of deputies and assistants of certain district and county officers, and declaring an emergency.

HORNSBY.

Senator McFarlane raised the point of order that the substitute was not germane to the original bill because it changed the purpose and intent of the original bill.

The point of order was overruled by the Senate by the following vote:

Yeas—5.

Martin.	Parr.
McFarlane.	Pollard.
Miller.	

Nays—18.

Beck.	Patton.
Berkeley.	Russek.
Cunningham.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Williamson.
Hyer.	Witt.
Moore.	Woodul.
Parrish.	

Present—Not Voting.

DeBerry.	Wirtz.
Gainer.	

Absent.

Cousins.	Westbrook.
Greer.	Woodward.
Love.	

Absent—Excused.

Neal.

Senator Pollard moved to make this bill second special order Tuesday morning after the morning call.

Senator Hornsby moved to table the motion. The motion to table prevailed by the following vote:

Yeas—17.

Beck.	Berkeley.
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Cousins.	Parrish.
Cunningham.	Patton.
Hardin.	Small.
Hornsby.	Stevenson.
Hyer.	Williamson.
Love.	Witt.
Moore.	Woodul.
Parr.	

Nays—7.

DeBerry.	Miller.
Holbrook.	Pollard.
Martin.	Thomason.
McFarlane.	

Absent.

Gainer.	Westbrook.
Greer.	Wirtz.
Russek.	Woodward.

Absent—Excused.

Neal.

The substitute was adopted by the following vote:

Yeas—18.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Gainer.	Patton.
Hardin.	Small.
Holbrook.	Stevenson.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodul.

Nays—7.

Cunningham.	
DeBerry.	Miller.
Martin.	Pollard.
McFarlane.	Thomason.
	Absent.

Greer.	Wirtz.
Russek.	Woodward.
Westbrook.	

Absent—Excused.

Neal.

Senator Martin moved to adjourn until 10:00 o'clock in the morning. The motion was lost.

The bill was read second time and passed to engrossment.

Senator Hyer moved that the constitutional rule requiring bills to be read on three several days be suspended and the bill put on its third reading and final passage. The motion prevailed by the following vote:

Yeas—24.

Beck.	Berkeley.
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Cousins.	Patton.
Cunningham.	Pollard.
Gainer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Moore.	Witt.
Parr.	Woodul.
Parrish.	Woodward.

Nays—4.

DeBerry.	McFarlane.
Martin.	Miller.

Absent.

Greer.	Russek.
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Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—17.

Beck.	Parrish.
Berkeley.	Patton.
Cousins.	Small.
Holbrook.	Stevenson.
Hornsby.	Thomason.
Hyer.	Williamson.
Love.	Witt.
Moore.	Woodul.
Parr.	

Nays—8.

Cunningham.	Miller.
DeBerry.	Pollard.
Martin.	Westbrook.
McFarlane.	Woodward.

Absent.

Gainer.	Russek.
Greer.	Wirtz.
Hardin.	

Absent—Excused.

Neal.

Recess.

On motion of Senator Berkeley, the Senate at 5:40 o'clock p. m., voted to recess until 8:00 o'clock p. m. at which time only local and uncontested bills should be taken up.

After Recess.

The Senate met at 8:00 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Barry Miller.

Senate Bill No. 597.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 597, A bill to be entitled "An Act to provide for the extension of the term of Oil and Gas Permit No. 11752, from a period of two years to a period of five years from its date, and creating an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Williamson the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 597 was put on its third reading and final passage, by the following vote:

Yeas—30.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Witt.
Martin.	Wirtz.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—22.

Beck.	Parrish.
Berkeley.	Patton.
Cunningham.	Pollard.
DeBerry.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
Parr.	Woodward.

Nays—1.

McFarlane.

Absent.

Cousins.	Moore.
Gainer.	Westbrook.
Miller.	

Absent—Excused.

Neal.

Messages from the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,
Austin, Texas, Mar. 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

By Senators Love and Moore, by request.

S. B. No. 297, A bill to be entitled "An Act amending Articles 4275 and 4276 of the Revised Civil Statutes of 1925; designating the securities in which the funds of life insurance companies may be invested; providing that if a domestic life insurance company reinsures the business and takes over the assets of a foreign life insurance company, the investments of such company so taken over and reinsured, if authorized, when made, by the laws of the State of its incorporation, shall be considered as valid securities of the domestic company so taking it over; providing that the provisions of this Act shall not invalidate any investments heretofore made by a domestic life insurance company, if such investments were legally authorized when made; defining "Texas Securities" and declaring an emergency."

By Mr. Shaver:

H. B. No. 296, A bill to be entitled "An Act relating to the State Board of Education; providing for the appointment of the members of said board; prescribing their qualifications, terms of service, and duties; authorizing them to appoint a State Superintendent of Public Instruction and upon his recommendation and nomination to set up a State Department of Education and appoint its staff; and, in general, authorizing said Board to assume and discharge the duties assigned by law to the State Board of Education and the State Superintendent of Public Instruction; repealing all laws in conflict with this Act, and declaring an emergency."

The House concurred in Senate

Amendments to H. B. No. 10 by a vote of 102 yeas and 5 nays.

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk House of Representatives.

Free Conference Committee Report.

Senator Love moved to adopt the following Free Conference Committee report on S. B. No. 407:

Hon. Barry Miller, President of the Senate:

Hon. W. S. Barron, Speaker of the House of Representatives:

We, the undersigned Free Conference Committee appointed on S. B. No. 407, beg leave to report our recommendation that the floor amendment offered in the House of Representatives by Representatives Purl, Savage, Holder, Davis, McCombs and Keller, adopted by the House, to the Senate Bill, be not agreed to but that in lieu thereof the following amendment be adopted:

"Strike out both in the caption and in Section 1 of the bill the words 'One Hundred Ten Thousand (110,000)' and inserting in lieu thereof the words 'One Hundred Sixty Thousand (160,000).'"

WILLIAMSON,
WOODUL,
WITT,
LOVE,
HYER.

Conferees on the part of the Senate.

PURL,
HOLDER,
DAVIS,
SAVAGE,
MCCOMBS,
KELLEY.

Conferees on the part of the House.

The motion prevailed by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Pollard.
DeBerry.	Russek.
Gainer.	Small.
Greer.	Stevenson.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller.

Moore.

Absent—Excused.

Neal.

Senate Bill No. 313.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 313, A bill to be entitled "An Act making better provision for the regulation of the sale and dealing in stock, bonds, and securities in this State, including any share, stock, treasury stock, stock certificate under a voting trust agreement, collateral trust certificate, re-organization certificate, or receipt, subscription or re-organization certificate, note, bond, debenture, mortgage certificate or other evidence of indebtedness, and form of commercial paper, certificate in or under a profit sharing or participation agreement, certificate of any interest in or under an oil, gas or mining lease or title, or any certificate or instrument representing or secured by any interest in any or all of the capital, property, assets, profits, or earnings of any company, investment contract, or any other instrument commonly known as a security, etc., and declaring an emergency."

The bill was read second time.

Senator Wirtz sent up the following amendments:

Amend S. B. No. 313 by adding after the words "issuer itself" in the first line of sub-division "R" of Section 2 of the bill, the following:

"or by the employees of a subsidiary corporation thereof, owning or operating a railroad, or any other public service utility."

The amendment was read and adopted.

Amend S. B. No. 313 as follows:

Amend Section 22 by striking out all of lines 27 and 30 inclusive, on page 24, beginning with the words "the Secretary of State," and ending with the words "under the laws of Texas," and by inserting in lieu thereof the following:

"Either the Secretary of State or any dealer or salesman concerning whom or concerning whose acts any investigation is being made may cause the deposition of witnesses residing within or without the State

to be taken. Depositions or written interrogatories shall be taken as follows: The party desiring to take the same shall file his interrogatories, together with a copy thereof, in the office of the Secretary of State, and shall furnish a true copy thereof to the party or parties concerning whom the investigation is being made. Within five days after the receipt of such copy, such party may file cross-interrogatories, together with a copy thereof, in the office of the Secretary of State. At the expiration of five days after such copy of interrogatories shall have been delivered in person or by registered mail to the party entitled to receive the same, the Secretary of State on his own motion may, or at the request of any interested party shall furnish one certified copy of the interrogatories and cross-interrogatories if any shall have been filed; whereupon, such certificate shall be authority to any officer now authorized under the laws of the State of Texas to take depositions empowering him to take the depositions in answer to the questions contained in said copies and to certify thereto in the manner and form required by law with reference to depositions taken in connection with causes of action pending in the courts of Texas, and shall return the same to the Secretary of State's office by mail. The Secretary of State shall file such depositions and the same shall then be subject to examination by any interested party. The certificate and copies of interrogatories shall be delivered to the party applying to take the depositions and said party shall make his own arrangements for the taking and the return thereof to the Secretary of State. Subject to the rules of evidence, such depositions may also be introduced in evidence in any court proceeding instituted for the purpose of reviewing the action of the Secretary of State in the manner provided by this Act.

"Oral depositions may also be taken in the following manner: Ten days' notice must be given in writing by the party or his attorney proposing to take such deposition to the opposite party, which notice shall state the name of the witness and the time and place of the taking of his deposition. If such oral de-

position be taken at the instance of the Secretary of State, the notice herein provided for shall be given by registered mail to the dealer, salesman, or other person under investigation. If the party under investigation desires to take such oral deposition, the notice herein provided for shall be given to the Secretary of State. In either case, the opposite party shall be entitled to be present in person or by attorney, or both, and to cross-examine the witness whose oral deposition is being taken in the manner now provided by law.

"Such witness shall be cautioned and sworn and the examination shall be conducted and the deposition certified and returned in the manner now provided by law, Title 55, Revised Civil Statutes of 1925, governing the taking of oral depositions, except that no commission shall be required and all instruments shall be filed in the office of the Secretary of State instead of the office of the clerk of the court."

The amendment was read and adopted.

Amend S. B. No. 313 as follows:

Amend sub-section (f) section 2, page 4, line 18, by inserting after "fact," the following:

"Any representation or statement to the effect that a cash dividend has been paid upon any security, when such representation or statement was made with actual knowledge that such dividend was not paid for actual earnings, or the declaring, issuing or paying of any such dividend."

The amendment was read and adopted.

Senator McFarlane sent up the following amendment.

Amend by striking out all after the word thereto in line 29, Section 18 and insert in lieu thereof the following:

"Provided, however, that the dealer shall have the right to appeal to the courts and that the dealer's registration shall not be revoked unless the courts declare him guilty of such violation of this Act with which he has been charged then the Secretary of State shall revoke said dealer's registration."

McFARLANE.

The amendment was read.

Senator Wirtz moved to table

the amendment. The motion prevailed.

The bill as amended passed to engrossment.

On motion of Senator Wirtz, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 313 was put on its third reading and final passage, by the following vote:

Yeas—25.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Pollard.
Cunningham.	Russek.
DeBerry.	Small.
Gainer.	Thomason.
Greer.	Westbrook.
Hardin.	Williamson.
Holbrook.	Wirtz.
Hornsby.	Witt.
Hyer.	Woodul.
Love.	Woodward.
Martin.	

Nays—3.

McFarlane.	Patton.
Parrish.	

Absent.

Miller.	Stevenson.
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Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—22.

Beck.	Parr.
Berkeley.	Pollard.
Cousins.	Russek.
Cunningham.	Small.
Gainer.	Thomason.
Greer.	Westbrook.
Hardin.	Williamson.
Holbrook.	Wirtz.
Hornsby.	Witt.
Love.	Woodul.
Martin.	Woodward.

Nays—6.

DeBerry.	Moore.
Hyer.	Parrish.
McFarlane.	Patton.

Absent.

Miller.	Stevenson.
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Absent—Excused.

Neal.

36—Jour.

House Bill Referred.

H. B. No. 296, referred to Committee on Educational Affairs.

Senate Bill No. 354.

The Chair laid before the Senate, on second reading, the following bill:

S. B. No. 354, A bill to be entitled "An Act to regulate the business in insurance on what is known as the Lloyd's Plan, amending all of Chapter 19, Title 78, Revised Statutes of Texas; and declaring an emergency."

The committee substitute bill was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Russek, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 354 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller.	Stevenson.
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Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—28.

Beck.	Love.
Berkeley.	Martin.
Cousins.	McFarlane.
Cunningham.	Moore.
DeBerry.	Parr.
Gainer.	Parrish.
Greer.	Patton.
Hardin.	Pollard.
Holbrook.	Russek.
Hornsby.	Small.
Hyer.	Thomason.

Westbrook.	Witt.
Williamson.	Woodul.
Wirtz.	Woodward.

Absent.

Miller.	Stevenson.
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Absent—Excused.

Neal.

Senate Bill No. 497.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 497, A bill to be entitled "An Act amending Article 1723 of the Revised Statutes of 1925, providing for the appointment by the Supreme Court of stenographers for that court, and fixing their salaries; and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Cunningham the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 497 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller.	Stevenson.
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Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—28.

Beck.	Hardin.
Berkeley.	Holbrook.
Cousins.	Hornsby.
Cunningham.	Hyer.
DeBerry.	Love.
Gainer.	Martin.
Greer.	McFarlane.

Moore.	Thomason.
Parr.	Westbrook.
Parrish.	Williamson.
Patton.	Wirtz.
Pollard.	Witt.
Russek.	Woodul.
Small.	Woodward.

Absent.

Miller.	Stevenson.
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Absent—Excused.

Neal.

Senate Bill No. 331.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 331, A bill to be entitled "An Act to amend Article 904 of the Penal Code of the State of Texas, relating to fees of non-residents for hunting in Texas by providing that non-residents of adjoining states who reside in counties bordering upon the State of Texas may hunt in Texas upon the same terms and upon the payment of the same license fees as residents of the State of Texas, in counties other than their own, and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Beck the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 331 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller.	Stevenson.
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Absent—Excused.

Neal.

The bill was read third time and finally passed.

Senate Bill No. 444.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 444, A bill to be entitled "An Act to amend Article 4891 of the Revised Civil Statutes of 1925, of the State of Texas, and to provide the conditions under which co-insurance clauses may be used in policies of insurance covering losses by fire to property in this State, and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Woodul the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 444 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—27.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Moore.	

Nays—1.

DeBerry.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

Senate Bill No. 463.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 463, A bill to be entitled "An Act to suppress mob violence and by defining a "mob" and a "lynching," and providing for the apprehension and punishment of persons participating therein; by empowering the Governor and making it his duty to investigate all cases of mob violence and lynchings; etc., and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Patton the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 463, was put on its third reading and final passage, by the following vote:

Yeas—25.

Beck.	Parrish.
Berkeley.	Patton.
Cunningham.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Moore.	Woodward.
Parr.	

Nays—3.

Cousins. Hyer.
DeBerry.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

The bill was read third time.

Senator DeBerry sent up the following amendment:

Amend S. B. No. 463, Section 2,

line 4 by adding after the word "or" the word "knowingly"

DeBERRY.

The amendment was read and adopted by a two-thirds vote.

The bill as amended passed finally.

Senate Bill No. 503.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 503, A bill to be entitled "An Act making an appropriation of \$28,911.47 or so much thereof as may be necessary payable out of the General Revenue not otherwise appropriated and appropriating all other current revenue, or so much thereof as may be necessary, to be derived from the operation of the Texas State Railroad until August 31, 1929, and to be deposited in the State Treasury; said appropriations being for the traveling, clerical and other expenses of the Board of Managers, and all other expenses connected with the sale and maintenance, operation or lease of said railroad, and being for the period up to and including August 31, 1931; and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Greer the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 503 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

Senate Bill No. 378.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 378, A bill to be entitled "An Act fixing an open season for hunting, taking or killing wild buck deer in the Counties of Nueces, Kleberg, Kennedy, Willacy, Cameron, Hidalgo, Starr, Brooks, Duval, Jim Wells, Jim Hogg, Zapata, Webb, La Salle, Dimmit, Zavala, Frio and McMullen; amending Article 879g of the Penal Code of 1925 as amended by Chapter 215 of the General and Special Laws of the Regular Session of the Fortieth Legislature; and declaring an emergency."

The bill was read second time.

Senator Parr sent up the following amendments:

By Senator Parr.

Amend S. B. No. 378 by striking out the Caption and inserting in lieu thereof the following:

A BILL

To Be Entitled

An Act amending Article 879g of the Penal Code of 1925 relating to open season for hunting, taking and killing wild bear and wild buck deer, fixing the open season for wild buck deer in certain counties and limiting and regulating the kind of buck deer that may be taken or killed in said counties; enacting provisions in reference to penalties for violating said Article 879g of the provisions of this Act; and declaring an emergency.

The amendment was read and adopted.

Amend said Senate Bill No. 378 by striking out of the printed bill line 27 on page 1, and inserting in lieu thereof the following:

"From November 15th to December 15th, both days inclusive, of each year, and it shall be unlawful to take or kill in the territory covered by said 18 counties more than one wild buck deer during any one open season or any wild buck deer not having horns of at least eight points. Any person hunting, taking or killing anywhere in this State any wild buck deer or wild bear at any other time than during the open season fixed by this Article, or hunting, taking or killing in the territory covered by said 18 enumerated counties any wild buck deer not having horns of at least eight points, or hunting, taking or killing in the territory covered by said 18 enumerated counties more than one wild buck deer, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars and not more than two hundred dollars."

The amendment was read and adopted.

The bill as amended passed to engrossment.

On motion of Senator Parr the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 378 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

The bill was read third time and finally passed.

Senate Bill No. 383.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 383, A bill to be entitled "An Act to amend Article 1040 of the Code of Criminal Procedure of the State of Texas, relating to allowances for Federal prisoners by providing that net profits as therein defined shall not include any profits derived from the support of Federal prisoners, held under Article 5117, of the Revised Civil Statutes of this State, and declaring an emergency."

The bill was read second time and passed to engrossment by the following vote:

Yeas—20.

Beck.	Patton.
Berkeley.	Russek.
Greer.	Small.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Moore.	Woodul.
Parr.	Woodward.

Nays— 3.

DeBerry. Parrish.
Holbrook.

Present—Not Voting.

Cousins.

Absent.

Cunningham.	Miller.
Gainer.	Pollard.
Hardin.	Stevenson.

Absent—Excused.

Neal.

On motion of Senator Witt the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 383 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Greer.
Berkeley.	Hardin.
Cousins.	Holbrook.
Cunningham.	Hornsby.
DeBerry.	Hyer.
Gainer.	Love.

Martin.	Small.
McFarlane.	Thomason.
Moore.	Westbrook.
Parr.	Williamson.
Parrish.	Wirtz.
Patton.	Witt.
Pollard.	Woodul.
Russek.	Woodward.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—24.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Patton.
Cunningham.	Russek.
Gainer.	Small.
Greer.	Thomason.
Hardin.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.

Nays—4.

DeBerry.	Parrish.
Holbrook.	Pollard.

Absent.

Miller. Stevenson.

Absent—Excused.

Neal.

Simple Resolution No. 87.

Senator Pollard sent up the following resolution:

Resolved, that Uncle Billy Disch be invited to address the Senate and be given the privileges of the floor.

POLLARD,
McFARLANE,
WIRTZ.

Read and adopted.

The Chair appointed Senators Pollard and McFarlane to conduct Mr. Disch to the platform.

Mr. Disch Speaks.

The Chair introduced Mr. Disch, who briefly addressed the Senate.

Senate Bill No. 562.

The Chair laid before the Senate

on second reading the following bill:

S. B. No. 562, A bill to be entitled "An Act making an appropriation to compensate John W. Hornsby for legal services, together with interest on the amount due, said services having been rendered the State of Texas in the case of State of Texas vs. Hoffman Construction Co., No. 42197 in the district court of Travis county, Fifty-third Judicial District, in which case judgment was obtained for the State against the defendant for the sum of \$412,000 and costs of suit; and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Small the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 562 was put on its third reading and final passage, by the following vote:

Yeas—27.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Nays—1.

DeBerry.

Present—Not Voting.

Hornsby.

Absent.

Stevenson.

Absent—Excused.

Neal.

Read third time and finally passed by the following vote:

Yeas—27.

Beck.	Holbrook.
Berkeley.	Hyer.
Cousins.	Love.
Cunningham.	Martin.
Gainer.	McFarlane.
Greer.	Miller.
Hardin.	Moore.

Parr.	Westbrook.
Parrish.	Williamson.
Patton.	Wirtz.
Pollard.	Witt.
Russek.	Woodul.
Small.	Woodward.
Thomason.	

Present—Not Voting.

DeBerry.	Hornsby.
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Absent.

Stevenson.

Absent—Excused.

Neal.

House Bill No. 627.

The Chair laid before the Senate on second reading the following bill:

By Mr. Kinnear and Mr. Nicholson:

H. B. No. 627, A bill to be entitled "An Act authorizing the commissioners' court of Jefferson county, Texas, to purchase not exceeding two automobiles for the use of the county tax assessor, to be used by said assessor while actually engaged in the discharge of his official duties and providing for reports of repairs thereon and maintenance, to be made to the county auditor, and limiting the amount to be expended for the purchase of said automobiles."

The committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Cousins the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 627 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Miller.	

Absent.

Stevenson.

Absent—Excused.

Neal.

Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Miller.	

Absent.

Stevenson.

Absent—Excused.

Neal.

Senate Bill No. 165.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 165, A bill to be entitled "An Act to amend Article, 2688 and Article 2689, R. S., 1925, creating the office of county superintendent of public schools; providing for filling the office; extending the term of office of present incumbents, fixing amount of bond of said county superintendent; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

The bill was read second time.

On motion of Senator Holbrook the bill was tabled.

Senate Bill No. 602.

The Chair laid before the Senate on second reading the following bill:

S. B. No. 602, A bill to be entitled "An Act adding Article 6899a to Chapter 1 of Title 121 of the Revised Civil Statutes of 1925 relating to marks and brands of livestock; requiring owners of livestock mentioned in said Chapter to record same with the County Clerk within a certain length of time after this Act takes effect; further regulating

marks and brands; providing that this Act shall apply to Matagorda County only; Providing regulations so that after the expiration of a certain length of time only records of marks and brands recorded after this Act takes effect shall be considered; enacting other provisions incidental to said purpose; and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Holbrook the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 602 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Miller.	

Absent.

Stevenson.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—29.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Miller.	

Absent.

Stevenson.

Absent—Excused.

Neal.

Senate Bill No. 344.

The Chair laid before the Senate on its second reading the following bill:

S. B. No. 344, A bill to be entitled "An Act relating to the sale of and defining agricultural seeds and mixed seeds; requiring the filing of representative samples and statements of quality of seed by seed dealers; prohibiting mixtures of seeds unless so labeled; etc."

Read second time.

Senator Love sent up the following amendment:

Strike out all below the enacting clause and substitute the following:

Section 1. That the term "agricultural seeds" or "agricultural seed," as used in this Act, shall be defined as the seeds of Canada Blue Grass, Kentuck Blue Grass, Brome Grass, fescues, millets, tall meadow oat grass, orchard grass, red top, Italian rye-grass, perennial rye-grass, saccharine and non-saccharine sorghums, Sudan grass, Rhodes, Rescue, Bermuda and Johnson Grasses, Timothy, alfalfa, alsike clover, crimson clover, red clover, sweet clover, white clover, Canada field peas, cow-peas, soy beans, velvet beans, vetches and other grasses and foreign plants, buckwheat, flax, rape, barley, field corn, broom corn, oats, rye, wheat and other cereals and cotton-seed, which are offered or exposed for sale within this State for seeding purposes within this State.

Sec. 2. Every lot of agricultural seeds as defined in Section 1 of this Act, except as herein otherwise provided, when in bulk, package or other containers of ten pounds or more, shall have affixed hereto, in a conspicuous place, on the exterior of the container of such agricultural seeds, a plainly written or printed tag or label as specified in Section 6 stating:

(a) Commonly accepted name.

(b) The approximate percentage by weight of inert matter and foreign material.

(c) The approximate total per-

centage by weight of weed seeds; the term "weed seeds," as herein used, being defined as the noxious weed seeds listed in Section 2, Subsection (f) and all seeds not listed in Section 1 as agricultural seeds.

(d) The approximate percentage of the kind of seed purported to be offered under the label, after deducting (a) "inert matter," (b) weed seed content and "other crop seeds," except where such seed is offered as a mixture under the provisions of Section 3 of this Act.

(e) The name of each kind of the seeds of the noxious weed seeds hereinafter defined, which are present, singly or collectively as follows: in excess of (1) one said noxious weed seed in each five grams of timothy, red top, tall meadow oat grass, crested dogtail, sudan grass, orchard grass, Canada Blue Grass, Kentucky Grass, Bermuda, Johnson, Rhodes, Rescue Grasses, Fescues, Brome Grasses, Perennial and Italian Rye Grasses, Western Rye Grass, Crimson Clover, Red Clover, White Clover, Alsike Clover, Alfalfa and all other grasses and clovers not otherwise classified: (2) one noxious weed seed in twenty-five grams of Millets, Rape, Flax, and other seeds not specified in (1) or (3) of this subsection: (3) one of said noxious weed seed in one hundred grams of wheat, oats, rye, barley, buckwheat, vetches, saccharine and non-saccharine sorghums, broom corn, velvet beans, peanuts, corn and other seeds as large or larger than wheat.

(f) Noxious weed seeds are defined as the seeds of Dodder, (*Cuscuta*, various species), Johnson Grass (*Andropogon Halepensis*) Russian Thistle (*Salsola Kali*), Bindweed or Morning Glory (*Convolvulus*, various species), Blue Weed (*Helianthus ciliaris*) Wire Grass (*Paspalum distichum*) Bermuda Grass (*Cynodon dactylon*) and such other weed seeds to be determined by the Commissioner of Agriculture and to be listed after due notice.

(g) The approximate percentage of germination of such agricultural seed together with the month and year said seed was tested and provided further, the Commissioner of Agriculture shall test and publish the results of such tests as herein provided, together with the month and year such tests were made by said

Commissioner together with the date of test shown on label.

(h) The full name and address of the vendor of such agricultural seeds.

(i) Correct weight.

(j) Name of State and locality where seed was grown, and if unknown, the tag shall be marked accordingly.

Sec. 3. Mixtures of seeds offered or exposed for sale within the State for seeding purposes, in lots of ten (10) pounds or more, containing one or more kinds of the agricultural seeds defined in Section 2 of this Act in excess of five percentum, by weight, of the total mixture, shall bear a plainly written or printed statement in the English language stating:

(a) That such seed is a mixture.

(b) The approximate percentage by weight of inert matter.

(c) The name of each kind of agricultural seed which is present in proportion of five per cent or more of the total mixture.

(d) The requirements providing in paragraphs (c) (e) (g) (h) and (i) of Section 2 of this Act.

Sec. 4. Before any agricultural seed or mixture of such seed are offered or exposed for sale, the vendor who causes it to be sold, exposed or offered for sale within this State for use within the State, shall for each kind and lot of seed defined in Section 1, file with the Commissioner of Agriculture a certified copy of the information enumerated in Section 2, and, covering the lot in question, the Commissioner of Agriculture may, for the purpose of enforcing this Act, make such inspections, either personally or through his agents or assistants, as he may deem advisable and for that purpose may require samples of any lot of agricultural seed sold or to be sold, or offered for sale, to be furnished him.

Sec. 5. The Commissioner of Agriculture is hereby empowered to adopt, from time to time, such reasonable rules and regulations, not in conflict with the law, as he may deem necessary and advisable to carry out the provisions of this Act, and may promulgate same by his proclamation published in the bulletin of the Department of Agriculture, and in one or more newspapers

or farm journals of general circulation published in the State of Texas.

Sec. 6. The vendor, before any agricultural seed or mixture of such seed are offered or exposed for sale, shall pay to the Commissioner of Agriculture, an inspection tax of not to exceed one cent for each hundred pounds or fraction thereof sold, or offered for sale, in this State and shall affix to each lot shipped in bulk, and to each bag, barrel or other package of such seed, a tag to be furnished by said Commissioner, stating that all charges specified in this article have been paid. The Commissioner is hereby empowered to prescribe the form of such tags, and adopt such regulations as may be necessary for the enforcement of this law. Whenever the vendor or wholesaler who prepares seed for market shall have filed a statement made as provided for in Section 4 and paid the inspection tax and has properly tagged seed shipped or offered for sale, said agent or retailer of such properly tagged seed shall not be required to file such statement or pay such tax. The amount of the inspection tax and penalties received by said Commissioner shall be paid into the State Treasury. So much of the inspection tax and penalties collected under this title shall be paid by the State Treasurer to the State Commissioner of Agriculture as the Commissioner may show by his bills has been expended in performing the duties required by this title, but in no case to exceed the amount of the inspection tax and penalties received by the State Treasurer under this title.

Sec. 7. The provisions of this Act shall not apply to agricultural seeds, or mixtures of seeds, as defined in Section 3 of this Act, when plainly labeled "Not Cleaned Seed" or "Not Tested Seed," or "Seeds sold to merchants to be recleaned before being sold or exposed for sale for seeding purposes," or when "in storage for the purpose of recleaning." Provided, however, that where exemption is sought under this provision and where seeds are labeled so as to show that they are not tested, then it shall be unlawful for the vendor of such seed to attach statements either by labels or otherwise pertaining to germination,

mechanical purity, and weed seed content.

Sec. 8. The percentage of inert matter and mechanical purity of agricultural seed and the mixture as defined in this Act, and other percentages required by this Act, shall be based upon a test or analysis, conducted either by the State Seed Laboratory or by the vendor of the agricultural seed, or "mixture," or his agents; provided that such test or analysis made by the vendor or his agents shall conform to the reasonable regulations which said Commissioner of Agriculture is hereby authorized and directed to prescribe, or shall conform to the reasonable regulations or methods of testing adopted or used by the Association of Official Seed Analysts of North America.

Sec. 9. Whoever buys or sells agricultural seeds, defined in Section 1 of this Act, or mixture of seeds as provided in Section 3 of this Act, for the use in this State for seeding purposes, may submit adequate, representative, and accurately drawn samples of such seeds to the State Seed Laboratory for examination, and test of purity and of viability, and said Commissioner of Agriculture shall cause such examination and test to be promptly made, and report thereon, and return to the sender. For the test of mechanical purity, said Commissioner shall charge a fee of twenty-five cents for the examination of each sample, and for a test of viability a fee of twenty-five cents, each or both of which fees shall be payable in advance, provided that these tests shall be made free of charge to the citizens of this State. All money received from receipt of such fees shall be paid into the Treasury of the State, to be credited to the funds of the State Department of Agriculture to be used exclusively in the administration of this Act.

Sec. 10. The enforcement of this Act shall be entrusted to the Commissioner of Agriculture, and he is authorized in person or by his inspectors, or assistants, to take for analysis, a sample not exceeding two pounds in weight from any lot of agricultural seeds or "mixtures" offered or exposed for sale; provided that said sample shall be drawn or taken in the presence of the vendor

or parties interested, or his or their agents or representatives, and shall not be from less than ten per cent of the whole lot inspected and shall be thoroughly mixed and then divided in two samples and placed in containers, carefully sealed and a label placed on each container stating the name of the agricultural seed or mixture sample, the name of the vendor from whose stock said samples were taken, and the date and place of taking such samples, and said label shall be signed by said commissioners of Agriculture, or his authorized agent; or said sample may be taken in the presence of disinterested witnesses if the vendor or party in interest fails or refuses to be present, when notified. One of said duplicate samples shall be left with or on the premises of the vendor or party in interest, and the other retained by the Commissioner of Agriculture for analysis and comparison with vendor's samples and labels required by Sections 2, 3, 4, and 5 of this Act.

The size of the sample required for the several crop seeds shall be determined by the said commissioner of Agriculture in such regulations as he may promulgate for the enforcement of this Act. The owner may collect the retail price for such samples, and when samples are drawn for the enforcement of this Act without the consent of the vendor, the Commissioner of Agriculture or his agent shall tender payment at the quoted retail price for the quantity thus taken, and shall take a receipt therefor.

The Commissioner of Agriculture shall annually and prior to December 1st, make and submit to the Governor a report of the services performed by him or his assistants, together with an itemized account of all moneys paid out as authorized under this Act.

Sec. 11. Whoever offers or exposes for sale within this State any agricultural seed, defined in Section 1 of this Act, without complying with the requirements of Sections 2, 3, 4, 5, and 6 of this Act, or whoever falsely marks or labels any agricultural seeds under Section 2 of this Act, or "mixture" under Section 3 of this Act, or whoever shall prevent the Commissioner of Agriculture or his duly authorized agents from inspecting said seed and collecting

samples as provided in Section 7 of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined not more than Fifty (\$50.00) dollars for the first offense and not more than Two Hundred (\$200.00) dollars for each succeeding offense; provided, however, that no prosecution for violation of this Act shall be instituted except in the manner following:

When the Commissioner of Agriculture believes, or has reason to believe, that any person has violated any of the provisions of Sections 2, 3, 4, 5, 7, 8, 9, 10 and 11 of this Act, he shall cause notice of such fact together with full specification of this Act or omission constituting the violation to be given to said person, who either in person or by agent or attorney, shall have the right under such reason, rules and regulations as may be prescribed by said Commissioner of Agriculture to appear before said Commissioner of Agriculture and introduce evidence, and said hearing shall be private. If, after said hearing or without such hearing, in case said person fails or refuses to appear, said Commissioner of Agriculture shall decide and decree that any or all of said specifications have been proven to his satisfaction, he may at his discretion so certify to the proper prosecuting law officer for violation of this Act, transmitting with said certificate a copy of the specifications and such other evidence as he shall deem necessary and proper, whereupon said prosecuting Attorney shall prosecute said person according to law.

Venue in cases arising under this Act shall be in the county where said seed are sold or offered for sale.

Sec. 12. No action for the recovery of damages or any liability whatsoever for any violation of any of the provisions of this Act, or for the breach of any legal duty or obligation in the sale of agricultural seeds defined in Section 1 of this Act, or the sale of mixtures defined in Section 3 of this Act, shall be maintained by the buyer and against the vendor of such seeds, unless the claim or claims of such buyer are based upon properly drawn samples of such seed from the bulk thereof, and examined in the way and manner provided in Sections 8 and 10 of this Act; provided that none of the

provisions of this Act shall affect any right accruing prior to the time when this Act shall go into effect; providing that nothing in this Act shall be construed as preventing one farmer from selling to another farmer such seed grown on his own farm as covered by the provisions of this Act without having said seed tested and labeled as provided for herein, when such seed is not advertised in the public press outside of the vendor's home county, and is not shipped by common carrier.

Sec. 13. The result of the analysis and tests of seed made by the Commissioner of Agriculture of samples drawn by him or his inspectors shall be published annually and supplied to any citizen of the state who may request said report.

There shall be appropriated annually from the State Treasury the sum of \$_____ in favor of the Department of Agriculture and the same together with the fees provided for in Section 6 of this Act, may be expended in the enforcement of this Act. So much of the monies secured as fees for tests and analysis of seed after first exhausting the monies secured from the collection of the tag fees and said appropriation as herein provided for, shall be paid to the Commissioner of Agriculture as he may show by his bills has been expended in performing the duties required by this Act.

Sec. 14. The words, "persons," "vendor," and "party in interest," and "whosoever," as used in this Act shall be construed to impart both the singular and plural, as the case may be, and shall include corporations, companies, societies and individuals.

Sec. 15. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudicated by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 16. That Chapter 4 of the Revised Texas Civil Statutes of 1925 be and the same is hereby repealed.

Sec. 17. All Acts or parts of Acts

in conflict herewith are hereby repealed.

The fact that there are now no adequate laws in this State which regulate the handling and labelling of seeds, creates a imperative public necessity requiring that the constitutional rule that bills be read upon three several days be suspended, and that this Act take effect from and after its passage, and it is so enacted.

Read and adopted.

Senator Love sent up the following amendment:

Amend the Caption to S. B. No. 344 to read as follows:

A BILL

To Be Entitled

An Act regulating the sale of and defining agricultural seeds and mixed seeds; providing that the Commissioner of Agriculture may require the filing of samples by seed dealers; prohibiting mixtures of seeds unless so labeled; providing for the collection of samples and their examination; defining noxious weeds and foreign matter; providing that certificates of analysis by the Commissioner of Agriculture shall be prima facie evidence in certain cases and regulate the measure of damage and designating an officer for the enforcement of the law and fixing of penalties for its violation; and repealing Chapter 4, of Title 4, Revised Civil Statutes of 1925, and declaring an emergency.

Read and adopted.

The bill as amended passed to engrossment.

On motion of Senator Love the Constitutional Rule requiring bills to be read on three several days was suspended and S. B. No. 344 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	McFarlane.
Berkeley.	Miller.
Cousins.	Moore.
Cunningham.	Parr.
DeBerry.	Parrish.
Gainer.	Patton.
Greer.	Pollard.
Hardin.	Russek.
Holbrook.	Small.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.

Witt.
Woodul.

Woodward.

Absent.

Stevenson.

Absent—Excused.

Neal.

Read third time and finally passed.

Senate Bill No. 345.

The Chair laid before the Senate on its second reading the following bill:

S. B. No. 345, A bill to be entitled "An Act to safeguard the public in the purchase of pure bred agricultural seed, true to name; providing that the State Board of Plant Breeder Examiners shall be hereafter known as the State Seed and Plant Board; further defining their duties, etc., and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Love, the Constitutional Rule requiring bills to be read on three several days was suspended and S. B. No. 345 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Miller.	

Absent.

Stevenson.

Absent—Excused.

Neal.

Read third time and finally passed.

Senate Bill No. 418.

The Chair laid before the Senate

on its second reading the following bill:

S. B. No. 418, A bill to be entitled "An Act amending Article 6640 of the Revised Civil Statutes of 1925 requiring lis pendens notices to be filed upon the filing of any suit or action involving the title to real estate or seeking to establish any interest or right therein or to enforce any lien, charge or encumbrance against the same; providing a failure to comply with the requirements of Article 6640 as amended shall be ground for dismissal of any suit affected by said article; and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Westbrook the Constitutional Rule requiring bills to be read on three several days was suspended and S. B. No. 418 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
Gainer.	Pollard.
Greer.	Russek.
Hardin.	Small.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Nays—1.

DeBerry.

Absent.

Stevenson.

Absent—Excused.

Neal.

Read third time and finally passed.

Adjournment.

Senator DeBerry moved that the Senate adjourn until 10:00 o'clock Tuesday morning. The motion prevailed, and at 10:20 p. m. the Senate adjourned.

APPENDIX.

Petitions and Memorials.

Farmers Educational and Co-
Operative Union of Texas.

Longview Junction, Texas,
Mar. 1, 1929.

Hon. Barry Miller, Lt. Gov., Presi-
dent of the Senate.

Hon. W. S. Barron, Speaker House of
Representatives,
Austin, Texas.

Gentlemen:

All of us have cause to be proud of the wonderful progress our great Lone Star Empire State of Texas is making and the commerce we are furnishing to the wealth and prosperity of our nation. Too many of us, however, are overlooking the fact that agriculture in its various branches is the real source of the proud position Texas occupies today in the commerce of the United States.

We have noted with gratification that the Legislatures of different States have passed laws aiding the farmers in their efforts to produce improved livestock, poultry, and other products which constitute commerce, and Oklahoma has recently enacted legislation which will stimulate increased production of such products including high bred horses, polo ponies and improved livestock generally. We regret that the Legislature of Texas failed to enact such encouraging laws. There is no reason why Texas shall not become the leading State for breeding of livestock and keep our State the head of such enterprises as we are today in general agricultural products. It is necessary to hold increased fairs and livestock displays and arrange for other meets for testing and displaying the abilities of high bred livestock at county and district fairs and at other selected locations necessary for the encouragement of high class breeding in addition to our great Dallas Fair.

The production on a larger and unlimited scale of varied class of livestock means a greater consumption of hay, corn, oats, maize, alfalfa, and other farm products which motor busses and trucks, and automobiles most possibly do not consume. We hope that proper consideration will be given to this suggestion so that adequate legislation can

and will be enacted either at some special session or the next regular session of the Legislature.

Yours respectfully,

J. D. Henderson, Pres., F. E. & C. U., of Texas, Munday, Texas; C. F. Steves, Chairman, Ex-Committee, Rt. 1, Runge, Texas; J. E. Edwards, Sec., F. E. & C. U. of Texas, Munday, Texas; A. L. Baker, Sec., Ex-Committee, and Sec. Legislative Com., F. E. & C. U. of Texas, Stockdale, Texas.

Farmers Educational and Co-
Operative Union of Texas.

Longview Junction, Texas.

March 1, 1929.

Hon. Barry Miller, Lt. Gov., Presi-
dent of the Senate.

Hon. W. S. Barron, Speaker, House
of Representatives.
Austin, Texas.

Gentlemen:

We notice in the press where it has been suggested that the State of Texas sell to the State of Oklahoma a disputed strip of territory which has just been awarded to Texas.

The citizens of Texas have pardonable pride in the extent and magnitude of our great Lone Star State. There is no doubt but that Greer County now in Oklahoma was, and is and should be a part of the State of Texas, but it was awarded to Oklahoma by the United States authorities when the question was submitted to the United States Government to decide the ownership of Greer County.

Our forefathers, who wrested Texas from Mexico, sacrificed their property and many of them the precious lives of themselves and families to secure for the posterity of Texans that immense domain which now constitutes a part of the United States of America as a sovereign state.

We deem it would be unwise and bad policy to sell even one acre of our heritage so dearly purchased for us by our ancestors and pioneer settlers, hence we wish to register our protest against selling any portion of the State of Texas to Oklahoma or any other state.

J. D. Henderson, President, F. E. & C. U. of Texas, Munday, Texas; C. F. Steves, Chairman, Ex-Com., Rt. 1, Runge Texas; J. E. Edwards, Sec., F. E. & C. U. of Texas, Munday, Texas; A. L. Baker, Sec. Ex-Com., F.

E. & C. U. of Texas, Stockdale, Texas.

Farmers Educational and Co-Operative Union of Texas.

Longview Junction, Texas.

Mar. 2, 1929.

Hon. Barry Miller, Lt. Gov., President of the Senate.

Hon. W. S. Barron, Speaker, House of Representatives.

Austin, Texas.

Gentlemen:

The natural resources of Texas, and including water power from our various water courses have remained undeveloped for ages. As time goes on the necessity of utilizing these water powers becomes more urgent and necessary year by year. Today a few farmers of Texas have advantage of Electric Power for lighting, heating and cooking purposes and also for operating different machinery on their farms.

We hope the day will soon be at hand when the charges for such service will be within reach of a majority if not every farm family in the State.

Controlling of industries is one proposition. Regulating such industries properly is desirable, but when such regulation by law hampers such industries to an extent confiscating their property and rights or destroying them, it is quite a different proposition.

We welcome to our State such individuals and such companies as will properly develop and furnish proper power and transportation to us on basis of equity, and we believe and feel that every legal encouragement should be given them to do so and to safeguard the interest of industries as well as the interest of the people.

Above was ordered at a conference held today of the officials of the Farmers Union of Texas representing every district in the State.

Yours respectfully,

J. D. Henderson, President F. E. & C. U. of Texas, Munday, Texas; C. F. Steves, Chairman, Ex-Com., Rt. 1, Runge Texas; J. E. Edwards, Sec., F. E. & C. U. of Texas, Munday, Texas; A. L. Baker, Sec., Ex-Com., F. E. & C. U. of Texas, Stockdale, Texas.

Carthage, Texas, Feb. 27, 1929.

Hon. Bob Barker, Secretary of the Senate,
Austin, Texas.

My dear Mr. Barker: The casual observer of the proceedings in either House of the State Legislature the past ten days might reasonably have included that the members were engaged in internecine warfare. Happily, however, one on the inside knows at all times that peace and good will and a desire for worthwhile service to the State are guiding principles of each life represented there.

The graceful and generous act, however, of one of the members in the Senate, in casting his vote in accordance with the wishes and convictions of an absent colleague, too ill to cast the vote for herself, impels the conviction that the days of chivalry are by no means past, and that Knighthood is in full flower in the Texas Senate.

I feel confident that no vote was ever cast in the Legislature of this State that was more significant—that more nearly typified the bigness of soul of the manhood of the country, and showed a greater appreciation of Texas womanhood than this "chivalry vote" of Sir Knight Benjamin F. Berkeley of the Texas Senate.

I am deeply impressed by so beautiful and thoughtful an act, and pray that I may be fully worthy of it. I congratulate the Senate on having so noble a member.

Sincerely and fraternally yours,
MARGIE E. NEAL,
State Senator, Second District.

Dallas, Texas, Mar. 2, 1929.

Hon. Barry Miller, President of the Senate,
Austin, Texas.

Dear Governor: Will you be so kind as to express for my mother and myself our deep appreciation of the Resolution and Adjournment of February 13th., last, taken by the Senate in honor of the memory of my father?

It was a most gracious act and one for which we shall always be grateful to yourself and the membership of the Senate.

Very sincerely yours,
JACK BEALI, Jr.

(TELEGRAM.)

Amarillo, Texas, Mar. 4, 1929.
Hon. Barry Miller, Lieutenant Governor.
Care Secretary of State, Austin, Texas.

We, your Committee on resolutions, respectfully recommend to your body the adoption of the following resolution:

Whereas, The Panhandle Livestock Association represents an association of the cattlemen of Texas and other persons directly or indirectly engaged in the livestock industry; and

Whereas, The Panhandle Livestock Association embraces within its membership many of the pioneer cattlemen of Texas, representing many citizens who have rescued the State of Texas from a frontier condition and brought it to its present state of advancement and high civilization and

Whereas, The members of the Panhandle Livestock Association are vitally interested in the welfare of Texas and the good of the citizens of Texas, and especially in the welfare and good of the citizens of that portion of Texas residing in what is commonly known as the Panhandle and South Plains area; and

Whereas, The Panhandle Livestock Association represents an organization embracing fifty-four counties in the State of Texas, and entire membership believes in the upholding of all law and right dealing between the citizens of Texas, and so believing, the membership of this association feels that while the sovereign State of Texas seeks to enforce right living and obedience to law on the part of its citizens, that the sovereign State should itself therefore set an example of such right dealing and obedience to law; and

Whereas, There has been filed by the Attorney General of Texas in the District Court of Travis County, Texas, a suit styled, "State vs. Bradford, et al.," by the terms of which suit the Attorney General of this State, in the name of the State of Texas, seeks to recover for the State a large amount of land in the Panhandle of Texas the identical suit in question embracing a strip of land approximately 70 miles long and in varying widths; and

Whereas, The whole of the land sought to be recovered is embraced in surveys made by the State of the State's Representatives, against which surveys patents have been issued by the sovereign State of Texas, over the hand and seal of the Governor thereof to various citizens of Texas, and

Whereas, These various citizens have moved upon this land many years ago and have been residing thereon, paying the taxes, using and occupying the land under a patent issued by the sovereign State of Texas, being the highest form of title heretofore known to the citizens of Texas; and

Whereas, These citizens owning this land represent the pioneer citizens, many of whom have built their homes, raised their families and buried their children in the identical ground embraced in this suit; and

Whereas, In this suit for the first time, the sovereign State of Texas now seeks to recover this land from these citizens by urging that the area covered by the suit is a navigable stream; and

Whereas, It is known to all mankind that such contention by the State is untenable in fact, for that the area embraced in this suit is nothing more than a sand flat or draw, which only in time of heaviest rains carries any amount of water; and

Whereas, Such repudiation by the sovereign State of Texas of a solemn contract made by it through the issuance of patents to these lands, accepted in good faith by the citizens of Texas, is a shock to our ideas of decencies and fair dealing between man and man, and especially is a shock to our sense of the proper relation that should be observed by sovereign and subject; and

Whereas, If the State successfully maintains this suit, it will detrimentally affect, to the injury of the citizens of Texas and their financial loss, practically every land owner in the State of Texas; and

Whereas, We believe that if the sovereign State of Texas wins a judgment in its favor in this suit and executes the same, That such act will tend to destroy the confidence of the citizens of Texas in any contract or legislative act or executive act, of this sovereign state, and

will produce a state of unrest, resentment and dissatisfaction among the citizens of this State; and

Whereas, The Honorable Clint Small of the Senate, has introduced in the Legislature of Texas what is known as "Senate Bill No. 150," and validating in the citizens of Texas their title to the land to which the State, through its various Governors, has already issued its solemn patent; and

Whereas, The only object of this bill is to confirm in the citizens that title to the land which has already been granted them by the State, and for which they have already paid the State full consideration; and

Whereas, This bill has heretofore passed the Senate and House, composing the Texas 41st Legislature, having passed each House by more than two-thirds majority; and

Whereas, The Honorable Dan Moody, Governor of this State, has seen fit to veto this bill, thus substituting his own judgment for the legislative will of the representatives of the people of Texas who spoke in favor of the bill by more than two-thirds majority in each House; and

Whereas, we do not believe that such executive veto has the approval of the people of Texas;

Now therefore, Be it resolved by the Panhandle Livestock Association, in 13th Annual Convention assembled at Amarillo, Texas, March 4, 1929, that we do hereby unhesitatingly urge upon the members of the Senate and the House of Representatives of the 41st Legislature of Texas, the Justice of Senate Bill No. 150, and we do hereby urgently request each member of the Senate and House to immediately cast their vote in favor of passing Senate Bill No. 150 over the executive veto. This resolution unanimously passed this day. Grover B. Hill, Secretary Panhandle Livestock Association.

Respectfully submitted,

A L. Waggoner, George Conrad, Claud Brummett, Resolutions Committee of the Panhandle Livestock Association.

Committee on Enrolled Bills

Committee Room,

Austin, Texas, March, 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 87

carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 88 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 99 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 107 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 108 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 125

carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 154 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 169 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 179 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 182 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 216

carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 230 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 252 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 359 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 370 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 384

carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 388 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your committee on Enrolled Bills, have had S. B. No. 404 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 434 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m., presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 446 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m., presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 477 carefully examined and compared,

and find the same correctly enrolled and have this day, at 11 o'clock a. m., presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 524 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m., presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 569 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m., presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 451 carefully examined and compared, and find the same correctly enrolled and have this day, at 11 o'clock a. m., presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. J. R. No. 19 carefully examined and compared, and find the same correctly enrolled, and have this day, at 3:10 o'clock p. m., presented the same to the Governor for his approval.

WITT, Chairman.

Committee on Engrossed Bills.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 582

carefully examined and compared and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 605 carefully examined and compared and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Reports.

Report of the Highway Investigating Committee.

Hon. Barry Miller, President of the Senate,

Hon. W. S. Barron, Speaker of the House.

We, your committee heretofore appointed under H. C. R. No. 9, to investigate the State Highway Department and the Board of Control of the State of Texas, and the administration thereof, said appointment being made to investigate certain charges preferred against said departments by Honorable Elwin Gerron, a member of the House, copy of said charges being attached hereto, beg leave to report as follows:

We, your committee, composed of Senators, Parrish, Beck and Woodul, and members of the House, Murphy, Wallace, Graves and Hornaday, met on February 4th, and organized and elected Mr. E. T. Murphy Chairman, and Senator Woodul Vice-Chairman, of said Investigating Committee. Our investigation continued from that date to February 21st. The proponent of the charges, Mr. Gerron, was present during the investigation and conducted said investigation.

Our investigation was confined solely to the charges made against the said departments in the House and Senate by Mr. Gerron. The testimony submitted to the Investigating Committee in its hearing, was the testimony submitted by Mr. Gerron and under his direction. Your Committee did not, in any way, attempt to make an audit of either department and our conclusions are based solely on testimony introduced by Mr. Gerron. At numerous hearings, witnesses were placed on the

stand by Mr. Gerron, some of whom were summoned from distant portions of the State, in an attempt to prove the charges that were made, many of said witnesses being questioned by the various members of this Committee, a copy of said testimony being attached hereto.

On February 21st, Mr. Gerron, who had preferred the charges and conducted the investigation of said charges, asked permission to make the following statement:

"Mr. Chairman and members of the Committee:

"First, Mr. Chairman, I want to make a statement to the Committee, and I wish that it be made a part of the record. Mr. Chairman and members of this Committee, Members of the Board of Control, and officials of the State Highway Department: I introduced this resolution, this concurrent resolution, on information and belief, and I introduced it because, as you know, these charges had been carried in newspapers of this State and had been circulated throughout this State, and, thinking that I might render a service to the citizenship of the State of Texas; first, not in proving these claims, but in either exonerating the Highway Commission of the State of Texas or either convicting them, may you please.

This investigation, members of the Committee, has reached a point where I think that nothing material can be developed. I think that none of these charges can be substantiated. Now, on the other hand, I realize that there has been controversy between the State Highway Department and the State Board of Control. In justice to both of these departments, I wish to say that it is my candid opinion that Mr. Tennant, that Mr. Walthall believed that they were right in these matters. I believe that Mr. Gilchrist, that Judge Ely, that Judge Johnson and Mr. Sterling believed that they were right; believed that they were acting and were actuated by the highest motives.

Now, I desire, Mr. Chairman and members of the Committee, that you go back to the House, and that you go back to the Senate, and that you say to the State of Texas: "We have the fullest confidence, we have the fullest faith in the State Highway Department of Texas." There

are some five thousand five hundred employees of the State Highway Department of Texas, and I realize that there might be some friction; but show me an organization in the State of Texas, where so many men, where so many employees are organized together, where there will not be such friction.

My friends, in justice to Mr. Tennant, who is a member of the Board of Control and who some people think is the guiding spirit, or was the guiding spirit behind this investigation, I will say to the members of this Committee that I have talked to Mr. Tennant; I went to his room one night, and I went to his office on two or three occasions, and not any time did he ask that I introduce this resolution. Mr. Tennant has at all times, I believe, only wanted to be fair, and I will make these remarks, Mr. Chairman and members of the Committee, because I wish to be fair, not only to the State Highway Department, but to all parties concerned. Now, there have been some rumors as to Jim Ferguson's being behind this investigation. As far as I know, Jim Ferguson, to my knowledge, has never come to me and offered any advice; has never offered any information as to this investigation.

Mr. Chairman, I may be censured, I may be criticized for having offered this resolution, but you know, as well as I know, that many times a grand jury brings an indictment through the help and the advice of the prosecuting attorney, and then after he goes into the case and sees that he doesn't have grounds upon which to secure a conviction, and then, may it please your honor, he steps before the bar and asks that the defendant go free; so I am asking that today. I am asking this Committee to go before the House and go before the Senate, and say to the people of Texas, "I think that the Highway Department of Texas, together with its officials, Mr. Gilchrist, or whoever they may be, we have the utmost confidence in your ability and we are willing that the Highway Department may be entrusted in your hands." And I cannot say too much in regard to Mr. Tennant. I want to say that because I don't want any member of this Committee, or any member of the State Highway Department to

think that Mr. Tennant has been the guiding spirit in this investigation, and, therefore, Mr. Speaker, I have concluded my evidence in this investigation and make these recommendations to this Committee.

Before closing, I wish to thank this Committee for the fairness which you have shown me in this investigation. If, perhaps, I have been rude or unfair to some of you, it was not because I was guided by any ulterior motive, so, Mr. Chairman, I leave the case in your hands."

ELWIN GERRON.

Based on the statement of Mr. Geron and the evidence submitted in the investigation, we have unanimously arrived at the conclusion that the Highway Department, composed of Mr. R. S. Sterling, Chairman, Cone Johnson and W. R. Ely, members, and Mr. Gibb Gilchrist, chief engineer, should be wholly exonerated as to the charges made, same in our judgment being without foundation and no proof establishing same.

We further make report, based on the statement of Mr. Geron and the evidence submitted before us as to the Board of Control composed of R. B. Walthall, Chairman, Roy I. Tennant and Claude Teer, that by reason of Mr. Teer's recent appointment to said Board, no charges have or could be made against him, and as no charges have been submitted against Mr. Tennant or Mr. Walthall, it is our unanimous opinion that said Board should be wholly exonerated as to the charges made, same in our judgment being without foundation and no proof establishing same.

We, the Committee, state to the people of Texas, that we have the utmost confidence in the honesty, integrity and ability of our officials that compose both the Highway Department and the Board of Control.

Respectfully submitted,

(For the Senate.)

WOODUL,
BECK,
PARRISH,

(For the House.)

MURPHY,
GRAVES,
HORNADAY,
WALLACE.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

H. B. No. 690, A bill to be entitled "An Act to create and validate Water Control and Improvement District No. 1 in Hidalgo County, Texas, as a Conservation and Reclamation District; validating and approving all orders made by the Commissioners' Court of said county in respect to the original organization of Hidalgo County Water Improvement District No. 4, under Article 3, Section 52, of the Constitution; validating and approving all orders made by the Board of Directors of said District converting said District into a Conservation and Reclamation District under Section 59, of Article 16, of the Constitution of the State of Texas; providing that the Board of Directors of said District shall have and exercise all the rights, powers, privileges and duties conferred and imposed by the provisions of Chapter 25, of the General Laws of the 39th Legislature passed at its Regular Session in 1925, and all amendments thereto now in force or hereafter to be enacted; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

STEVENSON, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 605, A bill to be entitled "An Act to diminish the civil jurisdiction of the County Court of Nueces County; or conform the jurisdiction of the jurisdiction of the 113 District Court of Nueces County thereto; to amend Chapter 79 being Senate Bill No. 205, passed at the regular session of the Thirty-ninth Legislature of the State of Texas, and entitled "An Act Changing and Fixing the Time of Holding the Court in the 28th Judicial District," and being an act to amend Chapter 109, being House Bill No. 564, pass-

ed at the regular session of the Thirty-eighth Legislature of the State of Texas, and entitled 'An Act amending Sections 6 and 6a of Chapter 8, being House Bill No. 45 passed at the First Called Session of the Thirty-seventh Legislature of the State of Texas, and Entitled 'An Act to Amend Chapter 46 of the General Laws of the State of Texas passed at the Regular Session of the Thirty-fifth Legislature, being an Act to reorganize the 28th Judicial District of the State of Texas, etc.'"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PATTON, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 627, A bill to be entitled "An Act authorizing the Commissioners' Court in any county having a population of not less than 73,100 and not more than 73,300 as shown by the preceding Federal census to purchase not exceeding two automobiles for the use of the county Tax Assessor to be used by said assessor while actually engaged in the discharge of his official duties, and providing for reports of repairs thereon and maintenance, to be made to the County Auditor and limiting the amount to be expended for the purchase of said automobiles, and providing for the marking of said cars; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and that it be not printed.

WIRTZ, Chairman.

Committee Room,
Austin, Texas, March 4, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 738, A bill to be entitled "An Act relating to the duties of the County Board of Education and the County Superintendent of counties

with an area of nine hundred and seventy-seven square miles and a population of not less than 15,000 nor more than 20,000 according to the last preceding Federal Census; providing for method of election of the County Board of Education; authorizing the appointment of the County Superintendent, and the employment of an assistant; authorizing the nomination of the teachers of the Common School Districts subject to the confirmation of the local trustees; authorizing the County Superintendent to make all purchases for supplies when the consideration is more than \$25.00; repealing all laws or parts of laws, General and Special, in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

HORNSBY, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

H. B. No. 735, A bill to be entitled "An Act to create Hidalgo County Water and Improvement District Number Seven, wholly within Hidalgo County and State of Texas; validating and approving orders made by the Commissioners' Court of Hidalgo County and the decree of the District Court of Hidalgo County, Texas, 93rd Judicial District, in respect to the organization, establishment and creation thereof, under authority of Section 59, Article 16, of the Constitution of the State of Texas, and under the laws of said State passed in pursuance thereof, and including within its limits the territory described and defined by said orders and judgment; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

STEVENSON, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 709, A bill to be entitled "An Act fixing a closed season for hunting or killing any deer in the counties of Hudspeth and El Paso, for a period of five years from the effective date of this passage and prescribing a penalty for violation of any provision of this Act; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and that it being a local bill that it be not printed.

WIRTZ, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, Your Committee on State Highways and Motor Traffic, to whom was referred

H. B. No. 696, A bill to be entitled "An Act creating a more efficient road system for Bowie county, Texas, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and that it be not printed.

WITT, Chairman.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Agricultural Affairs, to whom was referred

S. B. No. 591, A bill to be entitled "An Act authorizing and directing the Board of Directors of the Agricultural and Mechanical College of Texas to establish and maintain an agricultural experiment station in Lavaca county, within a radius of five miles of the town of Yoakum, Texas; to serve the counties of Lavaca, DeWitt, Victoria, Calhoun, Wharton, Colorado, Fayette and Gonzales; to select a suitable location for said station within said radius; to accept donations of lands, water and money for the establishment of said station; making an appropriation to pay the cost of establishing said station and for the operation of the same and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, but be not printed.

CUNNINGHAM, Chairman.

Committee Room,

Austin, Texas, Feb. 28, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 503, A bill to be entitled "An Act authorizing the Board of Regents of the Texas State Teachers colleges to make contracts for the erection of dormitories, to purchase or lease lands and other appurtenances for dormitories, to make contracts for the collection and disposition of the revenue derived from dormitories; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and that it be printed in the Journal but not otherwise.

WIRTZ, Chairman.

By Shaver et al. H. B. No. 503.

A BILL

To Be Entitled

An Act authorizing the Board of Regents of the Texas State Teachers Colleges to make contracts for the erection of dormitories, to purchase or lease lands and other appurtenances for dormitories, to make contracts for the collection and disposition of the revenue derived from dormitories; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Board of Regents of the Teachers Colleges of Texas is hereby authorized to enter into contracts with persons, firms, or corporations for the erection of dormitories at any Teachers College, and to purchase or lease lands and other appurtenances for the construction of such dormitories provided that the State of Texas incurs no liability for the buildings or the sites.

Sec. 2. The said Board of Regents is hereby authorized to make contracts with reference to the collection and disposition of the reve-

nue derived therefrom in the acquisition, management, and maintenance of said buildings.

Sec. 3. The Board of Regents is hereby authorized and empowered to adopt such rules and regulations requiring any class or classes of students to reside in such dormitories, or other buildings, as they may deem advisable. Absolute management and control of dormitories constructed under the provisions of this Act are vested in said Board of Regents.

Sec. 4. The fact that the Texas State Teachers Colleges are in dire need of dormitories at the present time creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule for the reading of bills on three several days in each House, and said rule is hereby suspended, and this Act is to take effect from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, March 1, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 297, A bill to be entitled "An Act providing that all Water Control and Improvement Districts heretofore organized under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and or under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and the Acts of the Fortieth Legislature at the First Called Session amendatory thereof, and in the organization of which petitions were signed by more than fifty persons owning land within the boundaries of such District and, on which petitions hearings were held by the commissioners' court of the county in which such districts were situated, and in which such court entered its order or judgment finding in favor of the petitioners for the creation and establishment of such districts and appointed a Board of Directors therefor, and in which districts elections have been held for the purpose of voting upon the confirmation of the organization of such districts and the issuance of preliminary bonds of said districts and levying of a tax upon all taxable

property in said districts for the purpose of paying such bonds at maturity and the interest thereon, and at which elections the confirmation of the organization of the districts received a majority of the qualified voters voting at said elections, the organization of such districts and the authorization for the issuance of preliminary bonds and the levy of a tax upon all property within such districts subject to taxation sufficient to pay said preliminary bonds and the interest thereon are hereby ratified, approved, confirmed and validated. All such Water Control and Improvement Districts are hereby expressly declared to be validly created and organized. The Board of Directors of such districts shall have the power and are hereby expressly authorized to make and enter any and all orders and provisions necessary for the purpose of issuing and selling the preliminary bonds voted and authorized by said elections and are hereby expressly authorized to levy general ad valorem taxes on all taxable property situated in such districts at the time such preliminary bonds are issued, in amount sufficient to pay the interest on such preliminary bonds and the principal thereof as same mature, and the costs of assessing and collecting such taxes, and such preliminary bonds, when issued and delivered, shall be the general, direct and binding obligations of such districts so issuing same. It shall not be necessary to validate such preliminary bonds by suit in court or any other proceeding. And further providing that all such districts shall be Water Control and Improvement Districts under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and the Acts of the Fortieth Legislature at the First Called Session amendatory thereof, and under the provisions of Section 59, of Article 16, of the Constitution of the State of Texas, and may incur indebtedness to fully carry out each and all of the purposes of its organization when such indebtedness has been, or may be hereafter authorized by a majority of the legally qualified property taxpaying voters voting at an election for that purpose, and may levy taxes for the payment of its obligations and the maintenance and operation of such districts, and shall be governed by the

provisions of the Laws of the State of Texas applying to Water Control and Improvement Districts except as otherwise herein provided; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal.

STEVENSON, Chairman.

By Hornaday et al. H. B. No. 297.

A BILL

To Be Entitled

An Act providing that all Water Control and Improvement Districts heretofore organized under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and or under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and or under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and the Acts of the Fortieth Legislature at the First Called Session amendatory thereof, and in the organization of which petitions were signed by more than fifty persons owning land within the boundaries of such district and, on which petitions hearings were held by the Commissioners' Court of the county in which such districts are situated, and in which such Court entered its order or judgment finding in favor of the petitioners for the creation and establishment of such districts and appointed a Board of Directors therefor, and in which districts elections have been held for the purpose of voting upon the confirmation of the organization of such districts and the issuance of preliminary bonds of said districts and levying of a tax upon all taxable property in said districts for the purpose of paying such bonds at maturity and the interest thereon, and at which elections the confirmation of the organization of the districts receive a majority of the qualified voters voting at such elections, and the issuance of preliminary bonds received a majority of all the property taxpaying voters voting at said elections, the organization of such districts and the authorization for the issuance of preliminary bonds and the levy of a tax

upon all property within such districts subject to taxation sufficient to pay said preliminary bonds and the interest thereon are hereby ratified, approved, confirmed and validated. All such Water Control and Improvement Districts are hereby expressly declared to be validly created and organized. The Board of Directors of such districts shall have the power and are hereby expressly authorized to make and enter any and all orders and provisions necessary for the purpose of issuing and selling the preliminary bonds voted and authorized to levy general ad valorem taxes on all taxable property situated in such districts at the time such preliminary bonds are issued, in amount sufficient to pay the interest on such preliminary bonds and the principal thereof as same mature, and the costs of assessing and collecting such taxes, and such preliminary bonds, when issued and delivered, shall be the general, direct and binding obligations of such districts so issuing same. It shall not be necessary to validate such preliminary bonds by suit in court or any other proceeding. And further providing that all such districts shall be Water Control and Improvement Districts under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas and the Acts of the Fortieth Legislature at the First Called Session amendatory thereof, and under the provisions of Section 59, of Article 16, of the Constitution of the State of Texas, and may incur indebtedness to fully carry out each and all of the purposes of its organization when such indebtedness has been, or may be hereafter authorized by a majority of the legally qualified property taxpaying voters voting at an election for that purpose, and may levy taxes for the payment of its obligations and the maintenance and operation of such districts, and shall be governed by the provisions of the Laws of the State of Texas applying to Water Control and Improvement Districts except as otherwise herein provided; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That all Water Con-

trol and Improvement Districts heretofore organized under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and the Acts of the Fortieth Legislature at the first Called Session, at Page 496, et seq., of said Acts amendatory thereof, and in the organization of which petitions were signed by more than fifty persons owning land within the boundaries of such districts, and on which petitions, hearings were held by the Commissioners' Court of the county in which such districts are situated, and in which such court entered its order or judgment finding in favor of the petitioners for the creation and establishment of such districts and appointed a Board of Directors therefor, and in which districts elections have been held for the purpose of voting upon the confirmation of the organization of such districts, and the issuance of preliminary bonds of said districts and levying of a tax upon all taxable property in said districts for the purpose of paying such bonds at maturity and the interest thereon, and at which election the confirmation of the organization of the districts received a majority of the qualified voters voting at said election and the issuance of preliminary bonds received a majority of all the property taxpaying voters voting at said elections, the organization of such districts and the authorization for the issuance of preliminary bonds and the levy of a tax upon all property within such districts subject to taxation sufficient to pay said preliminary bonds and the interest thereon are hereby ratified, approved, confirmed and validated. All such Water Control and Improvement Districts are hereby expressly declared to be validly created and organized. The Board of Directors of such districts shall have the power, and are hereby expressly authorized to make and enter any and all orders and provisions necessary for the purpose of issuing and selling the preliminary bonds voted and authorized by said elections, and are hereby expressly authorized to levy general ad valorem taxes on all taxable property situated in such district at the time such preliminary bonds are issued in amount sufficient to pay the interest on such preliminary bonds and the principal thereof as same ma-

ture, and the costs of assessing and collecting such taxes, and such preliminary bond when issued and delivered shall be the general, direct and binding obligations of such districts so issuing same. It shall not be necessary to validate such preliminary bonds by suit in court or any other proceeding.

Sec. 2. All such districts described in Section 1 of this Act are hereby expressly declared to be water Control and Improvement Districts under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, and the Acts of the 40th Legislature at the First Called Session amendatory thereof, and under the provisions of Section 59, of Article 16, of the Constitution of the State of Texas, and may incur indebtedness to fully carry out each and all of the purposes of its organization, when such indebtedness has been, or may be hereafter authorized by a majority of the legally qualified property taxpaying voters voting at an election for that purpose, and may levy taxes for the payments of its obligations and the maintenance and operation of such districts. Such districts shall be governed by the provisions of the Laws of this State applying to Water Control and Improvement Districts except as otherwise herein provided.

Sec. 3. The fact that the districts herein described have been organized for the purpose of constructing irrigation systems and drainage in connection therewith, and the fact that questions have been raised affecting the procedure of the organization of same, and that the operation of such districts is a matter of great public concern, create an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule requiring bills to be read upon three several days in each House, and the said Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is hereby so enacted.

Committee Room,
Austin, Texas, Mar. 1, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 64, A bill to be entitled
"An Act defining lobbying; requir-

ing any person, firm, unincorporated association or otherwise or corporation, their employees or anyone employed by them or their employees, etc., to file certain information with the Secretary of State and receive a certificate before any of said parties may be heard by the legislature or any member thereof; requiring all of said parties to file a report with the Secretary of State at the close of each legislative session containing certain information; prohibiting contingent employment of legislative counsel or agents; prohibiting any public official, any elective or appointive officer or employee or representative of anyone having the privileges of the floor of either House from acting as a legislative counsel or agent or receiving any compensation for representing anyone before the Legislature; prohibiting lobbyists on the floor of the legislature while in session providing that the Secretary of State shall collect a fee for issuing lobbyist certificates; providing a penalty; repealing all laws in conflict herewith; providing for contingency in case any provision is found unconstitutional and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal, and not otherwise.

WIRTZ, Chairman.

By McFarlane.

S. B. No. 64.

A BILL

To Be Entitled

An Act defining lobbying; requiring any person, firm, unincorporated association or otherwise or corporation, their employees or anyone employed by them or their employees, etc., to file certain information with the Secretary of State and receive a certificate before any of said parties may be heard by the legislature or any member thereof; requiring all of said parties to file a report with the Secretary of State at the close of each legislative session containing certain information; prohibiting contingent employment of legislative counsel or agents; prohibiting any public official, any elective or appointive officer or representative of anyone having

the privileges of the floor of either House from acting as a legislative counsel or agent or receiving any compensation for representing anyone before the legislature; prohibiting lobbyists on the floor of the Legislature while in session; providing that the Secretary of State shall collect a fee for issuing lobbyist certificates; providing a penalty; repealing all laws in conflict herewith; providing for contingency in case any provision is found unconstitutional and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Lobbying is any personal solicitation of a member of the Legislature of this State, during a session thereof, by private interview or letter, or message, or other means and appliances, not addressed solely to the judgment, to favor or oppose, or to vote for or against any bill, resolution, report or claim, or any matter pending before the Legislature, pending or to be introduced in either branch of the Legislature, by any person who misrepresents the nature of his interest in the matter to such member, or who is employed for a consideration by a person association or corporation, interested in the passage or defeat of such bill, resolution, report, claim or any matter pending before the Legislature, for the purpose of procuring the passage or defeat thereof provided; however, that this does not include or in any way affect any person employed by the Legislature for the purpose of drafting petitions, bills, or resolutions, attending to the taking of testimony, collecting facts, preparing data or submitting any information to the Legislature or committee thereof upon written request of the Legislature or any committee thereof for the same.

Sec. 2. Any person, firm, corporation or association or any officer or employee or any person, firm, corporation or association, acting for or on behalf of such person, firm, corporation or association to promote, advocate, or oppose in any manner, any matter pending, or that might legally come before the Legislature or either house thereof, shall, within one week, from the date of such employment, or within one week from the going into effect of

this Act, furnish, in a sworn statement, to the Secretary of State the following information, to-wit:

1. If an individual, his full name, place of residence, and place of business.

2. If a firm, the correct firm name, place of business and the full name and place of residence of each partner.

3. If a corporation or association, its full name, the location of its principal place of business, whether a domestic or foreign corporation, and the name and place of residence of each of its officers.

4. The nature and kind of their business, occupation or employment.

5. The full name, place of residence and occupation of each person, firm, corporation or association employed as legislative counsel or agents as hereinafter defined, together with the full period of employment of such counsel or agents, stating the terms of said contract and the amount to be paid to each person employed.

6. The exact subject matter or that might legally come before the Legislature or either House thereof, or before any committee thereof, with respect to which such person, firm, corporation or association is employed as a legislative counsel or agent.

7. When any change, modification or addition to such employment or the subject matter of the employment is made, the employer shall, within one week of such change, modification or addition, furnish, in writing, full information regarding same to the Secretary of State.

8. Whether the person, firm, corporation or association employed is a legislative counsel or legislative agent, within the meaning of this act as hereinafter defined, "Legislative counsel" is hereby defined to be any person, firm, corporation or association employed for a compensation, given directly or indirectly, to appear before a committee of the Legislature of either house, for the purpose of making arguments or examining witnesses, or any legal counsel employed regularly or temporarily by any person, firm, corporation or association who promotes or opposes legislation by the preparation of written briefs or statements submitted to the members of the legislature or the committees

thereof, or of either house, "Legislative Agent" is hereby defined to be any person, who, for a compensation, given directly or indirectly, promotes or opposes Legislation by any other means than those set forth in the preceding paragraph, especially by personal interview with the members of the Legislature or by personal communications with the members of the Legislature or the Governor of the State of Texas; provided a "Legislative Agent" may act as a legislative counsel if so authorized by his employer. The Secretary of State shall immediately enter all such information in a separate book, to be kept for that purpose, appropriately indexed so as to show all employers, employees the subject-matter and terms of such employment, and whether the employee is a legislative counsel or a legislative agent. The record of legislative counsel and legislative agents kept by the secretary of State shall be open to inspection by any citizen of Texas upon demand, at any time during the regular business hours of the Secretary of State.

Every person not residing within the State, and every foreign corporation, firm or association, employing legislative counsel or legislative agents in relation to any legislation pending or proposed in the Legislature of the State of Texas shall be required, as a condition precedent to filing the statements required by this act, to file with the Secretary of State within one week after the date of such employment, or within one week after the going into effect of this act, a bond of a surety company, or a bond sufficient personal security, approved by the Secretary of State in the penal sum of One Thousand Dollars (\$1,000.00) payable to the State of Texas, conditioned that such person, firm or corporation, and their employees will make correct reports as required in sections two and three of this act. Actions for forfeiture on such bond shall be brought in the name of the State of Texas, by the attorney-general, or by the District or County Attorney in the District Court of Travis County, after ten days' notice to the party negligent.

Upon the payment of the fee hereinafter prescribed, the Secretary of State shall issue to each person or the representative of any firm, cor-

poration or association so employed an identification certificate, showing the name of the person to whom the certificate is issued, the name or names of his employers, the particular matter in respect to which such person is so employed, the duration of the employment and whether the person is a legislative counsel or legislative agent. A new certificate shall be issued upon any change, modification or addition being made to such employment. Such certificate shall be prima facie evidence during the period of employment therein recited, but not to exceed two months, of compliance with that part of this action which has to do with the registration of legislative counsel and legislative agents, but no certificate shall be issued by the Secretary of State to be valid as such to continue beyond the term of the Legislature for which or during which said certificate is issued, and said Legislative Counsel or legislative agent shall be required to obtain a new certificate in accordance with the above provisions for each session of the Legislature.

Section 3. No person, firm or corporation employed by any person, firm, corporation or association as a legislative counsel or agent or as an individual shall prosecute his employment until his employer has complied with the provisions of section two of this act, or as an individual and until such counsel or agent or individual has complied with the provisions of section two of this act governing legislative counsel and legislative agents. Before any legislative counsel or agent or individual shall appear before any members or committee of the legislature or of either house, he shall present his certificate for examination by said committee. Any legislative agent who undertakes to discuss any proposed or pending legislation with any member of the legislature shall present his certificate for examination by said member, and shall not be heard or allowed to talk to any member or committee of the Legislature until said persons presents his certificate.

Sec. 4. Within ten days after the adjournment of the Legislature of the State of Texas, every person, firm, corporation or association employing legislative counsel or legis-

lative agents, shall file with the Secretary of State a complete and detailed statement, sworn to by the person making the same, or, in the case of a corporation, by its president, secretary or treasurer, of all expenses paid or incurred by such person, firm, corporation or association in connection with the employment of legislative counsel or agents, including the salaries of each for such counsel or agents. Persons, firms, corporations or associations shall render such itemized accounts under oath in such form as shall be prescribed by the Secretary of State, and such reports shall be open to public inspection, and the Secretary of State shall on the last day of each session of the Legislature file a report with the Secretary of the Senate, and the chief clerk of the House containing the information filed in the office of the Secretary of State, as required by the provisions of this act and the report of the Secretary of State shall be printed in the Senate and House Journal of the last day of each session for the information of the public.

Sec. 5. No Person shall be employed as legislative counsel or agent for a compensation dependent upon the passage amendment or defeat of any proposed legislation or amendment thereof, or upon any other contingency connected with the action of the Legislature or of either house, or of any committee thereof.

Sec. 6. Hereafter, it shall be unlawful for any person, unincorporated association or combination of two or more persons to collect, receive, keep, or expend any money for the purpose of promoting or opposing legislation pending or proposed before the Legislature, or either House, or the committees thereof, unless such association or person first appoint a treasurer, whose appointment shall be subscribed under oath in writing by at least two persons responsible for appointing such treasurer, which written appointment shall be filed in the office of the Secretary of State. No person shall be appointed or act as treasurer for any person, unincorporated association, or combination of two or more persons, who is not a citizen and resident of the State of Texas. It shall be unlawful for any person to contribute to any fund of

any person, unincorporated association, or combination of two or more persons, until a treasurer has been appointed as heretofore prescribed. No money shall be collected, received or expended by such person unincorporated association, or combination of two or more persons, except as it shall be paid over to and made to pass through the hands of the treasurer. The treasurer of such person, unincorporated association, or combination of two or more persons, shall keep a faithful record of all money received, collected and disbursed for the purpose of aiding or promoting the success, amendment or defeat of any legislation in the Legislature, or either House thereof, showing from whom received, the amount received in each case, to whom paid, for what the payments were made, and the amount in each case. The treasurer shall, within ten days after adjournment of the Legislature make a complete and detailed report under oath to the Secretary of State showing the itemized list of all money received, from whom received, all money disbursed, to whom paid and for what purpose. Such treasurer, upon a resolution of either House of the Legislature of this State, may be required to make such complete and detailed report to the Secretary of State within such time as may be prescribed in such resolution therefor.

The treasurer of such unincorporated association, group or combination or two or more persons shall also, within one week from the date of such appointment within one week after the going into effect of this Act, furnish, in a sworn statement to the Secretary of State, the following information:

1. The name, occupation and address of every person or persons comprising such unincorporated association, or combination of two of (or) more persons, or contributing to its funds if composed of individuals holding state, county, township or municipal offices of this State, or employees thereunder.

The name and address of the president, secretary and treasurer and also of the individuals comprising the governing body, if any, of such unincorporated association, or combination of two or more persons, if composed of individuals not hold-

ing state, county, township or municipal offices of this State, or employees thereunder.

2. The exact subject-matter pending or that might legally come before the Legislature, or either House, or before any committee thereof, which such unincorporated association, or combination of two or more persons, is interested in promoting or opposing.

3. The name or names, occupation and address of each and every representative of such person, unincorporated association or combination of two or more persons, employed as legislative counsel or agents, or otherwise, and the amounts paid to each of said persons.

Sec. 7. It shall be unlawful for any public official of this State, or of any county, precinct, city or town, including election and appointive officers and employees, or any officer, member or employee of any state, central committees of the Legislature or either House thereof, or before any member as a legislative counsel or agent.

It shall be unlawful for any elective or appointive officer or employee of either House of the Legislature, or any representative of any newspaper or press association, or other person having the privilege of the floor of either House, to set as a legislative counsel or agent, and it shall be further unlawful for any such person to promote or oppose any legislation by personal solicitation, appeal or threat to any member. It shall be unlawful for any proprietor, editor or publisher of any newspaper, journal, periodical or other publication, printed or circulated in this State, to receive any compensation whatsoever or thing of value in the nature of an award from any source, either directly or indirectly, for the printing of any article, news item (so-called), or advertisement, either for or against any bill or resolution pending before either House of the Legislature of this State, without indicating in such article, editorial, news item (so-called) or advertisement, at whose instance the same was so printed, and the compensation or thing of value received therefor.

The officers and employees of the Legislature of either House thereof,

are prohibited from supplying any bill, memorial or resolution to any person, firm, company, corporation or association, except upon a written order of the presiding officer of either House, which order shall be published in the Journal of the day same is issued.

Sec. 8. It shall be unlawful for any legislative counsel or agent, as defined by this Act, to go upon the floor of either House of the Legislature reserved for the members thereof while such House is in session, and attempt in any way to influence legislation, except by an invitation of such House extended by a record vote thereof.

Sec. 9. The Secretary of State shall charge and collect from the employer or any legislative counsel or agent the sum of two dollars as a fee for filing the statement herein required to be made by the employer or employee and filed with the Secretary of State. The Secretary of State shall neither receive nor file any such statement or issue a certificate to any legislative counsel or agent or person until the fee herein provided for has been paid. All money received by the Secretary of State less the cost of administering this Act, shall be paid into the State Treasury.

Sec. 10. Any person, firm, unincorporated association, corporation or association violating any provision of this Act shall for each violation be fined not less than two hundred dollars nor more than five thousand dollars. Any person employed as legislative counsel or agent who shall fail to comply with any provision of this Act or who shall act as legislative counsel or agent contrary to the provisions of this Act shall be fined not less than One Hundred Dollars nor more than One Thousand Dollars, and shall be disbarred from acting in the capacity of legislative counsel or agent for the period of not less than three years from the date of such conviction, or in addition thereto may be imprisoned in the penitentiary not more than two years or may receive both fine, disbarment and imprisonment. It shall be the duty of the Attorney General or any district or county attorney in this State, upon information to bring

prosecutions for the violation of the provisions of this Act.

Sec. 11. It shall be unlawful for any person employed for a pecuniary consideration to act as legislative counsel or legislative agent, as defined by this Act to attempt personally or directly to influence any member of the Legislature to vote for or against any measure pending therein, otherwise than by appearing before the regular committee thereof, when in session, or by newspaper publications, or by public addresses, or by written or printed statements, arguments, or briefs, delivered to each member of the Legislature; provided, that before delivering such statement, argument, or brief, twenty-five copies thereof shall be first deposited with the Secretary of State. No officer, agent, appointee, or employee in the service of the State of Texas, or of the United States, shall attempt to influence any member of the Legislature to vote for or against any measure pending therein affecting either directly or indirectly the pecuniary interests of such persons, excepting in the manner herein in the case of legislative counsel and legislative agents.

Sec. 12. Chapter Two of Title Five of the Penal Code of the Criminal Statutes of the State of Texas is hereby specifically repealed.

Sec. 13. If any section or provision of this Act be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of this Act as a whole, or any part thereof other than the part so decided to be unconstitutional or invalid.

Sec. 14. Due to the fact that the State of Texas has no adequate law on her statute books regulating lobbying and due to the fact that thirty-one states in the Union have already enacted laws regulating lobbying in their respective states, and that a bill on lobbying is now pending in the Congress of the United States, and due to the fact that it developed at the Fortieth Session of the Legislature of Texas that certain members of said session were charged with accepting bribes from lobbyists appearing before said session, and that it is recognized by every one that lobbyists are becoming more numerous at each session

of our Legislature and that our law on lobbying is wholly and totally inadequate to regulate the same, creates an emergency and there exists an imperative public necessity that the constitutional rule requiring that bills be read on three several days be and the same is hereby suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 309, A bill to be entitled "An Act prescribing that physical education courses approved by the State Department of Education shall be taught in the public schools of Texas.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal.

HORNSBY, Vice-Chairman.

By Cox of Navarro et al H. B. 309.

A BILL

To Be Entitled

An Act prescribing that physical education courses approved by the State Department of Education shall be taught in the public schools of Texas.

Be it enacted by the Legislature of the State of Texas:

Section 1. That instruction in physical education shall be established and made part of the course of instruction and training in the public elementary and secondary schools of the State by September 1, 1930.

Sec. 2. The State Superintendent of Public Instruction shall prepare courses of instruction for the public schools of the State for the purpose of carrying out this Act.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Highway and Motor Traffic, to whom was referred

H. B. No. 528, A bill to be entitled

"An Act amending Article No. 6673, Chapter One, of Title 116, of the Revised Civil Statutes of Texas, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal.

WITT, Chairman.

By Finn and Woodall. H. B. No. 528

A BILL

To Be Entitled

An Act amending Article 6673, Chapter 1, of Title 116, of the Revised Civil Statutes of Texas, and providing for the control of State Highways of Texas, and providing that no change in the routing of highways already designated within towns and cities of more than two hundred (200) population, shall be changed without the consent of the commissioners' court of the county wherein said town or city is situated, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 6673 of the Revised Civil Statutes of the State of Texas of 1925, be, and the same is hereby amended so that the same shall hereafter read as follows:

"Section 1. The Highway Commission is authorized to take over and maintain all various State Highways in Texas, with the exception of re-routing said highways located within towns and cities of more than two hundred (200) population through which State Highways have heretofore been laid out and designated; and when changes in the routing of said highways are hereafter proposed or contemplated by the Highway Commission, permission of the commissioners' court of the county wherein said town or city is located shall be first had and obtained, before said re-routing is made. The counties through which said highways pass shall be free from any cost, expense or supervision of such highways, except as hereinabove named. The State Highway Commission shall use the automobile registration fees in the State Highway Fund for the maintenance of such highways, and shall divert the same to no other use unless the Commission shall be without sufficient funds from other sources

to meet Federal aid to roads in Texas, and in such case the Commission is authorized by resolution to transfer a sufficient amount from such fund to match said Federal aid."

Sec. 2. The facts that the present control of State Highways is inadequate, and that large sums of money have been invested in the improvement of properties lying adjacent to said highways upon the faith of the permanency of said designated highways, which property values will be destroyed or greatly diminished by re-routing said highways, create an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be, and the same is hereby suspended, and the provisions made be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Highway and Motor Traffic, to whom was referred

H. B. No. 635, A bill to be entitled "An Act amending Article 6704 of the Revised Civil Statutes of the State of Texas, 1925, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal.

WITT, Chairman.

By Carpenter. H. B. No. 635.

A BILL

To Be Entitled

An Act amending Article 6704 of the Revised Civil Statutes of the State of Texas, 1925, as amended by the Fortieth Legislature at its Regular Session, Chapter 178, Page 256, by changing the provisions relative to the width of first class roads, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 6704 of the Revised Civil Statutes of this State as amended by Chapter 178 of the Regular Session of the Fortieth Legislature be amended so as to hereafter read as follows:

"Article 1. The commissioners'

court shall classify all public roads in their counties as follows:

1. First class roads shall be clear of all obstructions, and not less than forty feet nor more than one hundred feet wide; all stumps over six inches in diameter shall be cut down to six inches of the surface and rounded off, and all stumps six inches in diameter and under, cut smooth with the ground, and all causeways made at least sixteen feet wide. No first or second class road shall be reduced to a lower class.

2. Second class roads shall conform to the requirements of first class roads except that they shall be not less than forty feet wide.

3. Third class roads shall not be less than twenty feet wide and the causeways not less than twelve feet wide; otherwise they shall conform to the requirements of first class roads."

Sec. 2. The fact that it is the policy of the Highway Commission to make first class roads one hundred feet in width and there being no provision in the Law for condemning land for roads one hundred feet wide, and the further fact that considerable projects now under way are being held up because of inadequate condemnation provisions to the detriment of the State, create an emergency and an imperative public necessity that the Constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, March 4, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 117, A bill to be entitled "An Act regulating the season for taking furbearing animals and regulating the taking of and traffic in hides and skins taken from furbearing animals; providing for the propagation thereof; levying license fees and privilege taxes in connection with said business; enacting necessary provisions incidental to said subject and purpose; amending Section 9 of Chapter 177, General Laws, Regular Session of the Thirty-

ninth Legislature; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and that the bill be printed in the Journal but not otherwise.

WIRTZ, Chairman.

By Finlay.

H. B. No. 117.

A BILL

To Be Entitled

An Act regulating the season for taking fur-bearing animals and regulating the taking of and traffic in hides and skins taken from fur-bearing animals; providing for the propagation thereof; levying license fees and privilege taxes in connection with said business; enacting necessary provisions incidental to said subject and purpose; amending Section 9 of Chapter 177, General Laws, Regular Session of the Thirty-ninth Legislature, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Section 9 of Chapter 177, of the General Laws of the Regular Session of the Thirty-ninth Legislature be, and the same is hereby amended so as to hereafter read as follows:

"Section 9. It shall be unlawful for any person to take, sell, offer for sale, buy, offer to buy, or to have in his possession the pelt of any wild fur-bearing animal protected by the Laws of this State during the closed season for the taking or possessing of such pelt; provided, nothing in this Act shall affect the present zone law relating to wild fox, wild beaver and wild otter. The closed season on all wild fur-bearing animals shall be from the first day of February until the thirtieth day of November of the same year, both days inclusive; muskrats excepted, the closed season on which shall be from the sixteenth day of March until the fifteenth day of November of the same year, both days inclusive. Provided, that persons handling hides, skins or pelts of fur-bearing animals shall have ten days immediately following the open season for such pelts in which to dispose of the same; provided, that any person may keep and have in his possession such pelt or

pelts, taken during open season, for his own personal use.

Sec. 2. Any person desiring to raise and propagate any of the fur-bearing animals shall be permitted to take the same for propagation purposes under regulations provided by the Game, Fish and Oyster Commissioner, provided, the animal or the pelt thereof is not sold except during the open season for the taking of same, as provided in Section 1 of this Act.

Sec. 3. A buyer of hides and skins is one who buys direct from the trapper, with the intention to sell to another in this State, and who sells to another in this State or who acts as an agent of another in this State in such purchase.

Sec. 4. Buyers are classified and divided into two classes, namely; resident and non-resident. Resident buyers are those who have for a period of twelve months previous to their application for license have been bona fide residents of this State; all others are non-resident buyers.

Sec. 5. A dealer in hides and skins is one who buys from a trapper, either directly or indirectly, and ships and exports from this State either directly or indirectly, the skins and hides so bought, or buys from a buyer and exports from this State the skin and hides so bought, or buys from either a trapper or buyer and sells such skins and hides for manufacturing into a finished product in this State.

Sec. 6. Dealers are hereby divided into two classes, namely: resident and non-resident. Resident dealers are those who have for a period of twelve months previous to their application for a license been bona fide residents of this State. Texas corporations organized within twelve months prior to the legal open season for trapping shall be considered resident corporations. All others are non-resident dealers. Any person, other than the trapper shipping his own catch, who ships or carries skins and hides of fur-bearing animals out of this State shall be considered a dealer.

Sec. 7. A resident buyer herein defined, before commencing business must procure annually from the Game, Fish and Oyster Commissioner, one of his duly authorized licensed deputies, or county clerk, a

buyer's license, which shall be furnished upon the payment of the sum of Five (\$5.00) Dollars. Said license shall state the name, the residence, age, height, weight, color of hair and eyes of licensee. A fee of twenty-five cents may be retained by the officer issuing and reporting the sale of such license as his commission.

Sec. 8. Any non-resident buyer herein defined before commencing business must procure annually from the Game, Fish and Oyster Commissioner, one of his duly authorized deputies, or a county clerk, a non-resident buyer's license, which shall be furnished upon the payment of the sum of Twenty-five (\$25.00) Dollars. Said license shall state the name, residence, age, weight, height, color of hair and eyes of the licensee. A fee of Three (\$3.00) Dollars may be retained by the officer issuing and reporting sale of such license, as his commission.

Sec. 9. Any resident dealer herein defined before commencing business must procure annually from the Game, Fish and Oyster Commissioner, one of his duly authorized deputies, or a county clerk, a resident dealer's license, which shall be furnished upon the payment of the sum of Twenty-five (\$25.00) Dollars. Said license shall state the firm name of the dealer, manager's full name, street address, town and county. A fee of Three (\$3.00) Dollars may be retained by the officer issuing and reporting the sale of the license as his commission.

Sec. 10. Any non-resident dealer herein defined before commencing business, must procure annually from the Game, Fish and Oyster Commissioner, one of his duly authorized deputies, or a county clerk, a non-resident dealer's license which shall be furnished upon the payment of One Hundred (\$100.00) Dollars. Said license shall state the firm name of the dealer, manager's full name, street address, town, county and state. A fee of Five (\$5.00) Dollars may be retained by the officer issuing and reporting the sale of such license as his commission.

Sec. 11. That every dealer and buyer as defined in this Act must file with the Game, Fish and Oyster Commissioner, not later than the tenth day of each month a complete

sworn report on printed forms furnished by the Game, Fish and Oyster Commissioner, of the kind and number of hides and skins purchased in this State, and a sworn report of all such pelts shipped out of this State during the preceding month. Dealers must pay to the Game, Fish and Oyster Commissioner, or pay to one of his duly authorized representatives thereof, the full amount of the tax due on such furs as required by this Act; except, that non-resident fur buyers and non-resident dealers must pay the tax provided herein at the time shipment of such furs are made.

Sec. 12. That there be and is hereby levied a tax on all skins and hides taken from any wild fur-bearing animals which tax shall be paid to the State through the Game, Fish and Oyster Commissioner by dealers herein defined, or by the trapper, shipping his own catch in or out of the State as follows: On wild muskrats, wild opossum, wild polecat or skunk, wild ringtail cat, wild civetcat, wild fox, wild badger, one cent on each skin; on wild mink, and wild raccoon, five cents on each skin.

Sec. 13. That all fur-bearing animals protected by law and the skin or pelt taken from such fur-bearing animal is hereby declared to be and to continue to be, the property of the people of this State, until all taxes or charges levied herein are paid, and regulations herein are followed; notwithstanding the grant to take or have the same in possession.

Sec. 14. That the hides and skins shipped from this State, must be so tagged as to show the number and kind of hides in the shipment, consignor, shipping point, consignee and destination. Tags suitable for compliance with this provision must be secured from the Game, Fish and Oyster Commission, by all shippers requiring them for actual shipment. Such tags shall be of a distinctive color, bearing a serial number and entry headings for information as to the character and value of the shipment, consignor, and consignee, and shall be provided with a detachable stub bearing serial number and entry headings as appear on the body of the tag; such stubs must be filled out with a duplicate of information appearing on the body of the tag

and be forwarded or delivered to the Game, Fish and Oyster Commission, within ten days of the time of making such shipment.

Sec. 15. Every resident dealer, every buyer of a non-resident dealer and every trapper before shipping hides or skins covered by this Act, must secure from the Game, Fish and Oyster Commissioner, a tag or tags to be attached to such shipment or shipments. Such tags shall be of a distinctive color, bear a serial number and entry headings for information as to the character and value of these shipments, consignor and consignee, and shall be provided with a detachable stub which stub shall bear the same serial number and entry headings as appear on the body of the tag. Such stub must be filled out with a duplicate of information appearing on the body of the tag and be forwarded or delivered to the Game, Fish and Oyster Commission within ten days of the time of making such shipment.

Sec. 16. It shall be a violation of this Act, for any person, firm, corporation or association, to ship or carry from this State, any skin or hide of any fur-bearing animal on which the said tax is due, without the said tax being paid to the Game, Fish and Oyster Commissioner as provided in Section 12 of this Act.

Sec. 17. No hides or skins covered by this Act intended for shipment shall be accepted by any post-office, express company, common carrier, or their agents, unless there is attached to every package comprising such shipment one of the tags hereinbefore specified.

Sec. 18. All monies collected from the taxes, licenses, fines and penalties for the violation of this Act, shall belong to the Special Game Fund of this State, and shall be paid over by the Game, Fish and Oyster Commissioner to the Treasurer of this State, during the first week of each month, and shall be credited to the Special Game Fund of this State, and for the enforcement of the provisions of this Act and the game laws in general.

Sec. 19. The date of collecting of taxes on all wild fur-bearing animals herein fixed, shall become effective on such pelts taken on and after the first day of December, 1929.

Sec. 20. Every person, firm, or

corporation, violating any of the provisions of this Act, shall upon conviction be punished by fine of not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100) Dollars, and shall forfeit his license privilege for a period of twelve months after conviction.

Sec. 21. If any Section of this Act shall be held unconstitutional it shall not affect any other Section of this Act, and all Sections save the one that may be declared unconstitutional shall continue to be in full force and effect.

Sec. 22. The fact that there is no adequate law regulating and protecting the fur industry of this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended and said rule is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

FORTIETH DAY.

Senate Chamber,
Austin, Texas,

Tuesday, March 5, 1929.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Williamson.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By Senator Parr.

S. B. No. 607, A bill to be entitled "An Act to authorize the Commissioner of the General Land Office of the State of Texas to issue an oil and gas lease to H. M. Holden, his heirs and assigns, for a term of five years and as long thereafter, as oil, gas or any other mineral is produced in paying quantities, upon Mineral Survey 688 for 703.86 acres in Nueces Bay, Nueces County, Texas, being the Survey included in Permit No. 5242, conditioned that the said H. M. Holden, his heirs or assigns shall pay to the General Land Office in advance for the benefit of the Available School Fund a sum of one dollar per acre, per year, until oil, gas or other minerals be produced during said five year period, when a royalty equal to one-eighth of the market value of the gross production shall be paid in lieu of said rentals, providing for a forfeiture and reinstatement and declaring an emergency."

The bill was read first time and referred to the Committee on Public Lands and Land Office.

By Senator Love:

S. B. No. 608, A bill to be entitled "An Act vesting the right of eminent domain in the Board of Managers of the North Texas Junior Agricultural, Mechanical and Industrial College; and declaring an emergency."

The bill was read first time and referred to Committee on Civil Jurisprudence.

Simple Resolution No. 88.

Senator Parr sent up the following resolution:

Whereas, An all wise Providence in His goodness and mercy hath seen fit to call from our midst an honored and much beloved member of this Senate, the Honorable Jeff McLemore, who departed this life or this 4th day of March, 1929, at Laredo, Texas.

Whereas, as a member of the Senate and as a member of the House